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### **302. Legal representative**

**(1) Where a person dies, his legal representative shall be liable to pay any sum which the deceased would have been liable to pay if he had not died, in the like manner and to the same extent as the deceased.**

**(2) For the purposes of making an assessment (including an assessment, reassessment or recomputation under section 279) of the income of the deceased and for the purpose of levying any sum in the hands of the legal representative as per the provisions of sub-section (1), —**

**(a) any proceeding taken against the deceased before his death shall be deemed to have been taken against the legal representative and may be continued against the legal representative from the stage at which it stood on the date of the death of the deceased;**

**(b) any proceeding which could have been taken against the deceased if he had survived, may be taken against the legal representative; and**

**(c) all the provisions of this Act shall apply accordingly.**

**(3) The legal representative of the deceased shall be deemed to be an assessee for the purposes of this Act.**

**(4) Subject to the provisions of sub-sections (5), (6) and (7), the liability of a legal representative referred to in sub-section (1) shall be limited to the extent to which the estate of the deceased is capable of meeting the liability.**

**(5) Every legal representative shall be personally liable for any tax payable by him in his capacity as legal representative if, while such liability tax remains undischarged, he creates a**

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**charge on or disposes of or parts with any assets of the estate of the deceased, which are in, or may come into, his possession.**

**(6) The liability of a legal representative referred to in subsection (5) shall be limited to the value of the asset so charged, disposed of or parted with.**

**(7) The provisions of sections 304(2) and (5) and 305 shall, in so far as may be and to the extent to which they are not inconsistent with the provisions of this section, apply in relation to a legal representative.**

**303. Representative assessee.**

**(1) For the purposes of this Act, “representative assessee” means—**

**(a) in respect of the income of a non-resident specified in section 9, the agent of the non-resident, including a person who is treated as an agent under section 306;**

**(b) in respect of the income of a minor or a person who is mentally ill or of unsound mind, the guardian or manager who is entitled to receive or is in receipt of such income on behalf of such minor or a person who is mentally ill or of unsound mind;**

**(c) in respect of income which the Court of Wards, the Administrator-General, the Official Trustee or any receiver or manager (including any person, whatever his designation, who in fact manages property on behalf of another) appointed by or under any order of a court, receives or is entitled to receive, on behalf or for the benefit of any person,**

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**such Court of Wards, Administrator-General, Official Trustee, receiver or manager;**

**(d) in respect of income which 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) receives or is entitled to receive on behalf or for the benefit of any person, such trustee or trustees;**

**(e) in respect of income which a trustee appointed under an oral trust receives or is entitled to receive on behalf or for the benefit of any person, such trustee or trustees.**

**(2) For the purposes of sub-section (1)(d), a trust which is not declared by a duly executed instrument in writing (including any wakf deed which is valid under the Mussalman Wakf Validating Act, 1913) shall be deemed to be a trust declared by a duly executed instrument in writing if a statement in writing, signed by the trustee or trustees, setting out the purpose or purposes of the trust, particulars as to the trustee or trustees, the beneficiary or beneficiaries and the trust property, is forwarded to the Assessing Officer,—**

**(a) where the trust has been declared before the 1st June, 1981, within three months from that day; and**

**(b) in any other case, within three months from the date of declaration of the trust.**

**(3) For the purposes of sub-section (1)(e), “oral trust” means a trust which is not declared by a duly executed instrument in writing (including any wakf deed which is valid under the Mussalman Wakf Validating Act, 1913) and which is not**

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deemed under sub-section (2) to be a trust declared by a duly executed instrument in writing.

(4) Every representative assessee shall be deemed to be an assessee for the purposes of this Act.

**304. Liability of representative assessee.**

(1) Every representative assessee, as regards the income in respect of which he is a representative assessee, shall be subject to the same duties, responsibilities and liabilities as if the income were income received by or accruing to or in favour of him beneficially and for this purpose,—

(a) the representative assessee shall be liable to assessment in his own name in respect of that income and any such assessment shall be deemed to be made upon him in his representative capacity only; and

(b) the tax on such income shall, subject to the other provisions contained in this Chapter, be levied upon and recovered from the representative assessee in like manner and to the same extent as it would be leviable upon and recoverable from the person represented by him.

(2) If any person, in respect of any income is assessable under this Chapter in the capacity of a representative assessee, then he shall not, in respect of that income, be assessed under any other provisions of this Act.

(3) Irrespective of the provisions of this Chapter, the Assessing Officer may directly assess the person on whose behalf or for whose benefit income therein referred to is receivable, or may recover from such person the tax payable in respect of such income.

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**(4) If only part of the income of a trust is chargeable under this Act, then the proportion of income receivable by a beneficiary from such trust derived from the chargeable part shall be determined as follows:—**

**A x C,**

**B**

**Where,—**

**A = the chargeable part of the income of the trust;**

**B = the whole income of the trust; and**

**C = the income receivable by the beneficiary from the trust.**

**(5) The Assessing Officer shall have the same remedies in the same manner against all property of any kind vested in or under the control or management of any representative assessee as he would have against the property of any person liable to pay any tax, whether the demand is raised against the representative assessee or against the beneficiary direct.**

**305. Right of representative assessee to recover tax paid.**

**(1) Every representative assessee who, as such, pays any sum under this Act, shall be entitled to recover the sum so paid from the person on whose behalf it is paid, or to retain out of any moneys that may be in his possession or may come to him in his representative capacity, an amount equal to the sum so paid.**

**(2) Any representative assessee, or any person who apprehends that he may be assessed as a representative assessee, may retain out of any money payable by him to the person on whose behalf he is liable to pay tax (hereinafter in**

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this section 306 referred to as the principal), a sum equal to his estimated liability under this Chapter.

(3) In the event of any disagreement between such principal and such representative assessee or person with regard to the amount to be so retained as referred to in sub-section (2), such representative assessee or person may secure from the Assessing Officer a certificate stating the amount to be so retained pending final settlement of the liability, and the certificate so obtained shall be his warrant for retaining that amount.

(4) The amount recoverable from such representative assessee or person at the time of final settlement shall not exceed the amount specified in such certificate, except to the extent to which such representative assessee or person may at such time have in his hands additional assets of the principal.

**306. Who may be regarded as agent.**

(1) For the purposes of this Act, “agent”, in relation to a non-resident, includes—

(a) any person in India—

(i) who is employed by or on behalf of the non-resident; or

(ii) who has any business connection with the non-resident; or

(iii) from or through whom the non-resident is in receipt of any income, whether directly or indirectly; or

(iv) who is the trustee of the non-resident;

(b) any other person who, whether a resident or non-resident, has acquired by means of a transfer, a capital asset in India.

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**(2) A broker in India who, in respect of any transactions, does not deal directly with or on behalf of a non-resident principal but deals with or through a non-resident broker shall not be deemed to be an agent under this section in respect of such transactions, if the following conditions are fulfilled:—**

**(a) the transactions are carried on in the ordinary course of business through the first-mentioned broker; and**

**(b) the non-resident broker is carrying on such transactions in the ordinary course of his business and not as a principal.**

**(3) A person shall not be treated as the agent of a non-resident unless he has had an opportunity of being heard by the Assessing Officer as to his liability to be treated as such.**

**(4) For the purposes of this section, “business connection” shall have the meaning assigned to it in section 9(9)(a).**

**307. Charge of tax where share of beneficiaries unknown.**

**(1) The income or any part thereof, in respect of the person mentioned in sections 303(1)(c) and (d) shall be chargeable to tax at the maximum marginal rate, if—**

**(a) such income or such part thereof is not specifically receivable on behalf or for the benefit of any one person; or**

**(b) the individual shares of the persons on whose behalf or for whose benefit such income or such part thereof is receivable are indeterminate or unknown.**

**(2) The income or any part thereof as referred to in subsection (1), shall be chargeable to tax at the rate applicable to an association of persons as if it were its total income, if,—**

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**(a) none of the beneficiaries has any other income chargeable under this Act exceeding the maximum amount not chargeable to tax in case of an association of persons, or is a beneficiary under any other trust; or**

**(b) such income or part of such income is receivable under a trust declared by any person by will and such trust is the only trust so declared by him; or**

**(c) such income or part of such income is receivable under a trust created before the 1st March, 1970, by a non-testamentary instrument and the Assessing Officer is satisfied, having regard to all the circumstances existing at the relevant time, that the trust was created bona fide—**

**(i) exclusively for the benefit of the relatives of the settlor; or**

**(ii) exclusively for the benefit of the members of such family, where the settlor is a Hindu undivided family, in circumstances where such relatives or members were mainly dependent on the settlor for their support and maintenance; or**

**(d) such income is receivable by the trustees on behalf of a provident fund, superannuation fund, gratuity fund, pension fund or any other fund created bona fide by a person carrying on a business or profession exclusively for the benefit of persons employed in such business or profession.**

**(3) Subject to the provisions of sub-section (4), where the income in respect of the person mentioned in section 303(1)(d) consists of, or includes, profits and gains of business, tax shall be charged at the maximum marginal rate such income or part thereof.**

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**(4) Where the profits and gains referred to in sub-section (3) are receivable under a trust declared by any person by will exclusively for the benefit of any relative dependent on him for support and maintenance, and such trust is the only trust so declared by him, income or part thereof shall be chargeable to tax at the rate applicable to an association of persons.**

**(5) For the purposes of this section,—**

**(a) such income or any part thereof shall be deemed as being not specifically receivable on behalf or for the benefit of any one person unless the person on whose behalf or for whose benefit such income or such part thereof is receivable during the tax year is expressly stated in the order of the court or the instrument of trust or wakf deed, as the case may be, and is identifiable as such on the date of such order, instrument or deed;**

**(b) the individual shares of the persons on whose behalf or for whose benefit such income or such part thereof is received shall be deemed to be indeterminate or unknown unless the individual shares of the persons on whose behalf or for whose benefit such income or such part thereof is receivable, are expressly stated in the order of the court or the instrument of trust or wakf deed and are ascertainable as such on the date of such order, instrument or deed.**

**308. Charge of tax in case of oral trust.**

**(1) Where a trustee receives or is entitled to receive any income on behalf or for the benefit of any person under an oral trust, then, irrespective of anything contained in any**

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**other provision of this Act, tax shall be charged on such income at the maximum marginal rate.**

**(2) For the purposes of this section, “oral trust” shall have the meaning assigned to it in section 303(3).**

**309. Method of computing a member's share in income of association of persons or body of individuals.**

**(1) For the purposes of this section, sections 310 and 311, an association of persons or body of individuals shall not include a company or a co-operative society or a society registered under the Societies Registration Act, 1860, or under any law corresponding to that Act in force in any part of India.**

**(2) In computing the total income of an assessee who is a member of an association of persons or a body of individuals wherein the shares of the members are determinate and known, the share of a member in the income or loss of such association or body shall be computed in the following manner,—**

**(a) any interest, salary, bonus, commission or remuneration, by whatever name called, paid to any member in respect of the tax year shall be deducted from the total income of the association or body and the balance ascertained and apportioned among the members in the proportions in which they are entitled to share in the income of the association or body;**

**(b) the interest, salary, bonus, commission or remuneration referred to in clause (a), shall be,—**

**(i) added to the apportioned amount referred to in clause (a), if such apportioned amount is a profit; or**

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**(ii) adjusted against the apportioned amount referred to in clause (a), if such apportioned amount is a loss,**

**and the resultant amount shall be treated as the share of the member in the income of such association or body.**

**(3) The share of a member in the income or loss of the association or body, as computed under sub-section (2), shall, for the purposes of assessment, be apportioned under the various heads of income in the same manner in which the income or loss of the association or body has been determined under each head of income.**

**(4) Any interest paid by a member on capital borrowed by him for the purposes of investment in the association or body shall, in computing his share chargeable under the head “Profits and gains of business or profession” in respect of his share in the income of the association or body, be deducted from his share.**

**(5) For the purposes of this section, “paid” means actually paid or incurred according to the method of accounting upon the basis of which the profits or gains are computed under the head “Profits and gains of business or profession”.**

**310. Share of member of association of persons or body of individuals in income of association or body.**

**(1) Income-tax shall not be payable by an assessee (who is a member of an association of persons or body of individuals) in respect of his share in the income of the association of persons or body of individuals computed in the manner provided in section 309, except in a case referred to in sub-section (2).**

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**(2) Where no income-tax is chargeable on the total income of the association of persons or body of individuals, the share of a member computed as provided in section 309 shall be chargeable to tax as part of his total income.**

**(3) Where no income-tax is payable by an assessee under sub-section (1),—**

**(a) if the association of persons or body of individuals is chargeable to tax on its total income at the maximum marginal rate or any higher rate under any of the provisions of this Act, the share of a member computed as aforesaid shall not be included in his total income;**

**(b) in any other case, the share of a member computed as aforesaid shall form part of his total income.**

**311. Charge of tax where shares of members in association of persons or body of individuals unknown, etc.**

**(1) Where the individual shares of the members of an association of persons or body of individuals in the whole or any part of the income of such association or body are indeterminate or unknown, tax shall be charged on the total income of such association or body at the maximum marginal rate, subject to the provision of sub-section (2).**

**(2) In a case referred to in sub-section (1) where the total income of any member of such association or body is chargeable to tax at a rate which is higher than the maximum marginal rate, tax shall be charged on the total income of the such association or body at such higher rate.**

**(3) Where the individual shares of the members of an association of persons or body of individuals in the whole or**

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any part of the income of such association or body are determinate or known, and—

(a) where the total income of any member of such association or body for the tax year (excluding his share from such association or body) exceeds the maximum amount which is not chargeable to, tax shall be charged on the total income of the association or body at the maximum marginal rate;

(b) where the total income of such association or body for the tax year chargeable to tax at a rate which is higher than the maximum marginal rate,—

(i) tax shall be charged on that portion of the total income of association or body which is relatable to the share of such member at such higher rate; and

(ii) the balance of the total income of such association or body shall be taxed at the maximum marginal rate.

(4) For the purposes of this section, the individual shares of the members of an association of persons or body of individuals in the whole or any part of the income of such association or body shall be deemed to be indeterminate or unknown if such shares (in relation to the whole or any part of such income) are indeterminate or unknown on the date of formation of such association or body or at any time thereafter.

### **312. Executor.**

(1) The income of the estate of a deceased person shall be chargeable to tax in the hands of the executor as an individual, if there is only one executor, or as an association of persons, if the executors are more than one.

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**(2) For the purposes of this Act, the executor shall be deemed to be resident or non-resident according to the residential status of the deceased person for the tax year in which his death took place.**

**(3) For the purposes of this section, “executor” includes an administrator or other person administering the estate of a deceased person.**

**(4) The assessment of an executor under this section shall be made separately from any assessment that may be made on him in respect of his own income.**

**(5) Separate assessments shall be made under this section on the total income of each completed tax year or part thereof as is included in the period from the date of the death to the date of complete distribution to the beneficiaries of the estate according to their several interests.**

**(6) In computing the total income of any tax year under this section, any income of the estate of that tax year distributed to, or applied to the benefit of, any specific legatee of the estate during that tax year shall be excluded; but the income so excluded, shall be included in the total income of the tax year of such specific legatee.**

**(7) The provisions of section 305 shall, so far as may be, apply in the case of an executor in respect of tax paid or payable by him, as they apply in the case of a representative assessee.**

**313. Succession to business or profession otherwise than on death.**

**(1) Where a person carrying on any business or profession (hereinafter referred to as the predecessor) has been**

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succeeded therein by any other person (hereinafter referred to as the successor) who continues to carry on that business or profession,—

(a) the predecessor shall be assessed in respect of the income of the tax year in which the succession took place up to the date of succession;

(b) the successor shall be assessed in respect of the income of the tax year after the date of succession.

(2) Irrespective of anything contained in sub-section (1), when the predecessor cannot be found, the assessment of the income of the tax year in which the succession took place up to the date of succession and of the tax year preceding that year shall be made on the successor in like manner and to the same extent as it would have been made on the predecessor, and all the provisions of this Act shall, so far as may be, apply accordingly.

(3) Irrespective of anything contained in sub-sections (1) and (2), where there is succession, the assessment or reassessment or any other proceedings, made or initiated on the predecessor during the course of pendency of such succession, shall be deemed to have been made or initiated on the successor and all the provisions of this Act shall, so far as may be, apply accordingly.

(4) When any sum payable under this section in respect of the income of such business or profession assessed on the predecessor,—

(a) for the tax year in which the succession took place up to the date of succession; or

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**(b) for the tax year preceding the year in which the succession took place, cannot be recovered from him, the Assessing Officer shall record a finding to that effect and the sum payable by the predecessor shall thereafter be payable by and recoverable from the successor, and the successor shall be entitled to recover from the predecessor any sum so paid.**

**(5) Without prejudice to the provisions of this section, where any business or profession carried on by a Hindu undivided family is succeeded to, and simultaneously with the succession or after the succession there has been a partition of the joint family property between the members or groups of members, the tax due in respect of the income of the business or profession succeeded to, up to the date of succession, shall be assessed and recovered in the manner provided in section 315.**

**(6) For the purposes of this section,—**

**(a) “income” includes any gain accruing from the transfer, in any manner, of the business or profession as a result of the succession; and**

**(b) “pendency” means the period commencing from the date of filing of application for such succession of business before the High Court or tribunal or the date of admission of an application for corporate insolvency resolution by the Adjudicating Authority as defined in section 5(1) of the Insolvency and Bankruptcy Code, 2016, and ending with the date on which the order of such High Court or tribunal or such Adjudicating Authority, is received by the jurisdictional Principal Commissioner or the Commissioner.**

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**314. Effect of order of tribunal or court in respect of business reorganisation.**

**(1) Irrespective of anything to the contrary contained in section 263, if prior to the date of order in respect of business reorganisation, any return of income has been furnished under the provisions of the said section by an entity for any tax year to which such order applies, the successor shall furnish, within six months from the end of the month in which the order was issued, a modified return in such form and manner, as may be prescribed, in accordance with and limited to the said order.**

**(2) Where the assessment or reassessment proceedings for a tax year to which the order in respect of the business reorganisation applies,—**

**(a) have been completed on the date of furnishing of the modified return as per the provisions of sub-section (1), the Assessing Officer shall pass an order modifying the total income of the relevant tax year determined in such assessment or reassessment, in accordance with such order in respect of business reorganisation and taking into account the modified return so furnished;**

**(b) are pending on the date of furnishing of the modified return as per sub-section (1), the Assessing Officer shall pass an order assessing or reassessing the total income of the relevant tax year as per the order in respect of the business reorganisation and taking into account the modified return so furnished.**

**(3) Subject to any other provisions of this section, in an assessment or reassessment made in respect of a tax year**

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**under this section, all other provisions of this Act shall apply and the tax shall be chargeable at the rate or rates as applicable to such tax year.**

**(4) For the purposes of this section,—**

**(a) “business reorganisation” means the reorganisation of business involving the amalgamation or demerger or merger of business of one or more persons;**

**(b) “order in respect of business reorganisation” means an order of a High Court or tribunal or an Adjudicating Authority as defined in section 5(1) of the Insolvency and Bankruptcy Code, 2016; and**

**(c) “successor” means all resulting companies in a business reorganisation, whether or not the company was in existence prior to such business reorganisation.**

**315. Assessment after partition of a Hindu undivided family.**

**(1) A Hindu family, hitherto assessed as undivided, shall be deemed for the purposes of this Act to continue to be a Hindu undivided family, except where and in so far as a finding of partition has been given under this section in respect of the Hindu undivided family.**

**(2) Where, at the time of making an assessment under section 270 or section 271, it is claimed by or on behalf of any member of a Hindu family assessed as undivided that a partition, whether total or partial, has taken place among the members of such family, the Assessing Officer shall make an inquiry there into after giving notice of the inquiry to all the members of the family.**

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**(3) On the completion of the inquiry, the Assessing Officer shall record a finding as to whether there has been a total or partial partition of the joint family property, and, if there has been such a partition, the date on which it has taken place.**

**(4) Where a finding of total or partial partition has been recorded by the Assessing Officer under this section, and the partition took place during the tax year,—**

**(a) the total income of the joint family in respect of the period up to the date of partition shall be assessed as if no partition had taken place; and**

**(b) each member or group of members shall, in addition to any tax for which he or it may be separately liable and irrespective of anything contained against Schedule III (Table: Sl. No. 1), be jointly and severally liable for the tax on the income so assessed.**

**(5) Where a finding of total or partial partition has been recorded by the Assessing Officer under this section, and the partition took place after the expiry of the tax year, the total income of the tax year of the joint family shall be assessed as if no partition had taken place, and the provisions of sub-section (4)(b), shall so far as may be, apply to the case.**

**(6) Irrespective of anything contained in this section, if the Assessing Officer finds after completion of the assessment of a Hindu undivided family that the family has already effected a partition, whether total or partial, the Assessing Officer shall proceed to recover the tax from every person who was a member of the family before the partition, and every such person shall be jointly and severally liable for the tax on the income so assessed.**

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**(7) The provisions of this section shall, so far as may be, apply in relation to the levy and collection of any penalty, interest, fine or other sum in respect of any period up to the date of the partition, whether total or partial, of a Hindu undivided family as they apply in relation to the levy and collection of tax in respect of any such period.**

**(8) Irrespective of anything contained in the foregoing provisions of this section, where a partial partition has taken place after the 31st December, 1978, among the members of a Hindu undivided family hitherto assessed as undivided,—**

**(a) a claim that such partial partition has taken place shall not be inquired into under sub-section (2) and no finding shall be recorded under sub-section (3) that such partial partition had taken place and any finding recorded under sub-section (3) to that effect at any time, shall be null and void;**

**(b) such family shall continue to be liable to be assessed under this Act as if no such partial partition had taken place; and**

**(c) each member or group of members of such family immediately before such partial partition and the family shall be jointly and severally liable for any tax, penalty, interest, fine or other sum payable under this Act by the family in respect of any period, whether before or after such partial partition.**

**(9) For the purposes of this section, the several liability of any member or group of members there under shall be computed according to the portion of the joint family property allotted**

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to him or it at the partition, whether total or partial and the provisions of this Act shall apply accordingly.

**(10) For the purposes of this section,—**

**(a) “partition” means,—**

**(i) where the property admits of a physical division, a physical division of the property, but a physical division of the income without a physical division of the property producing the income shall not be deemed to be a partition; or**

**(ii) where the property does not admit of a physical division, then such division as the property admits of, but a mere severance of status shall not be deemed to be a partition;**

**(b) “partial partition” means a partition which is partial as regards the persons constituting the Hindu undivided family, or the properties belonging to the Hindu undivided family, or both.**

**316. Shipping business of non-residents.**

**(1) Irrespective of anything in the other provisions of this Act, the provisions of this section shall apply for the purpose of levy and recovery of tax in the case of any ship, belonging to or chartered by a non-resident, which carries passengers, livestock, mail or goods shipped at a port in India.**

**(2) Where such a ship carries passengers, livestock, mail or goods shipped at a port in India,—**

**(a) 7.5% of the amount paid or payable on account of such carriage shall be deemed to be income accruing in India to**

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**the owner or charterer on account of such carriage, whether that amount is paid or payable in or out of India; and**

**(b) the amount referred to in clause (a) shall include the amount paid or payable by way of demurrage charge or handling charge or any other amount of similar nature.**

**(3) Before the departure from any port in India of any such ship, the master of the ship shall prepare and furnish to the Assessing Officer a return of the full amount paid or payable to the person as mentioned in sub-section (2) or any person on his behalf on account of such carriage shipped at that port since the last arrival of the ship thereat.**

**(4) The requirement of furnishing the return as per sub-section (3) shall be deemed to have been complied with, if—**

**(a) the Assessing Officer is satisfied that—**

**(i) it is not possible for the master of the ship to furnish the return before the departure of the ship from the port; and**

**(ii) the master of the ship has made satisfactory arrangements for filing of the return and payment of tax by any other person on his behalf; and**

**(b) the return is filed within thirty days of the departure of the ship by any person so authorised by the master.**

**(5) On receipt of the return, the Assessing Officer shall—**

**(a) assess the income referred to in sub-section (2); and**

**(b) determine the sum payable as tax thereon at the rate or rates in force applicable to the total income of a company which has not made the arrangements referred to in section**

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**393(1) (Table: Sl. No. 7) and such sum shall be payable by the master of the ship.**

**(6) No order assessing the income and determining the sum of tax payable thereon shall be made under sub-section (5) after the expiry of nine months from the end of the tax year in which the return under sub-section (3) is furnished.**

**(7) For the purposes of determining the tax payable under sub-section (5), the Assessing Officer may call for such accounts or documents as he may require.**

**(8) A port clearance shall not be granted to the ship until the Commissioner of Customs, or other officer duly authorised to grant the same, is satisfied that the tax assessable under this section has been duly paid or that satisfactory arrangements have been made for the payment thereof.**

**(9) Nothing in this section shall prevent the owner or charterer of a ship from claiming, before the end of the year following the tax year in which the date of departure of the ship from Indian port falls, that an assessment be made of his total income of the tax year as per other provisions of this Act, and tax payable be determined on the basis of such assessment.**

**(10) In a case falling under sub-section (9), any payment made under this section during the tax year, if so claimed, shall be treated as—**

**(a) tax paid in advance with respect to that year and adjusted against tax payable by such person; and**

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**(b) the difference between the sum so paid and the amount of tax found so payable by him on such assessment shall be paid by him or refunded to him.**

**317. Assessment of persons leaving India.**

**(1) Irrespective of anything contained in section 4, when it appears to the Assessing Officer that any individual may leave India during the current tax year or shortly after its expiry, with no present intention of returning to India, the total income of such individual for the period beginning from the first day of that current tax year up to the probable date of departure from India (referred to as specified period in this section) shall be chargeable to tax in that current tax year.**

**(2) The total income of each completed tax year or part of any tax year included in the specified period shall be chargeable to tax at the rate or rates in force in that tax year, and separate assessments shall be made in respect of each such completed tax year or part of any tax year.**

**(3) The Assessing Officer may estimate the income of such individual for such specified period or any part thereof, where it cannot be readily determined in the manner provided in this Act.**

**(4) For the purposes of making an assessment under subsection (1), the Assessing Officer may serve a notice upon such individual requiring him to furnish within such time, not being less than seven days, as specified in the notice, a return in the same form and verified in the same manner as a return under section 268(1), setting forth his—**

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**(a) total income for each completed tax year comprised in such specified period referred to therein; and**

**(b) estimated total income for any part of the tax year comprised in such specified period,**

**and the provisions of this Act shall, so far as may be, and subject to the provisions of this section, apply as if the notice were a notice issued under section 268(1).**

**(5) Irrespective of anything contained in section 268(1) or 280, where the provisions of sub-section (1) are applicable, the Assessing Officer may issue any notice under section 268(1) or 280, requiring the furnishing of the return by such individual in respect of any tax chargeable under any other provisions of this Act, within such period, not being less than seven days, as the Assessing Officer may think proper.**

**(6) The tax chargeable under this section shall be in addition to the tax, if any, chargeable under any other provisions of this Act.**

**318. Assessment of association of persons or body of individuals or artificial juridical person formed for a particular event or purpose.**

**(1) Irrespective of anything contained in the section 4, where it appears to the Assessing Officer that any association of persons or a body of individuals or an artificial juridical person, formed or established or incorporated for a particular event or purpose in a tax year is likely to be dissolved in the same year or immediately after such year, the total income of such association or body or juridical person for the period beginning from the first day of that tax year up**

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to the date of its dissolution shall be chargeable to tax in that tax year.

(2) For the purpose of sub-section (1), the provisions of section 317(2) to (6) shall, so far as may be, apply to any proceedings in the case of any such person as they apply in the case of persons leaving India.

**319. Assessment of persons likely to transfer property to avoid tax.**

(1) Irrespective of anything contained in section 4, where it appears to the Assessing Officer during any current tax year that any person is likely to charge, sell, transfer, dispose of or otherwise part with any of his assets with a view to avoiding payment of any liability under the provisions of this Act, the total income of such person for the period beginning from the first day of that current tax year up to the date when the Assessing Officer commences proceedings under this section shall be chargeable to tax in the current tax year.

(2) For the purpose of sub-section (1), the provisions of section 317(2) to (6) shall, so far as may be, apply to any proceedings in the case of any such person as they apply in the case of persons leaving India.

**320. Discontinued business.**

(1) Irrespective of anything contained in section 4, where any business or profession is discontinued in any tax year, the income of the period beginning from the first day of that tax year up to the date of such discontinuance may, at the discretion of the Assessing Officer, be charged to tax in that tax year.

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**(2) The total income of each completed tax year or part of any tax year included in such period shall be chargeable to tax at the rate or rates in force in that tax year, and separate assessments shall be made in respect of each such completed tax year or part of any tax year.**

**(3) Any person discontinuing any business or profession shall give to the Assessing Officer notice of such discontinuance within fifteen days thereof.**

**(4) Where any business is discontinued in any year, any sum received after the discontinuance shall be deemed to be the income of the recipient and charged to tax accordingly in the year of receipt, if such sum would have been included in the total income of the person who carried on the business had such sum been received before such discontinuance.**

**(5) Where any profession is discontinued in any year on account of the cessation of the profession by, or the retirement or death of, the person carrying on the profession, any sum received after the discontinuance shall be deemed to be the income of the recipient and charged to tax accordingly in the year of receipt, if such sum would have been included in the total income of the said person, had it been received before such discontinuance.**

**(6) Where an assessment is to be made under the provisions of this section, the Assessing Officer may serve on the person whose income is to be assessed or, in the case of a firm, on any person who was a partner of such firm at the time of its discontinuance or, in the case of a company, on the principal officer thereof, a notice containing all or any of the requirements which may be included in a notice under section 268(1) and the provisions of this Act shall, so far as**

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may be, apply accordingly as if the notice were a notice issued under section 268(1).

(7) Irrespective of anything contained in section 268 or 280, where the provisions of sub-section (1) are applicable, the Assessing Officer may issue any notice under section 268 or 280, requiring the furnishing of the return by the person whose income is to be assessed in respect of any tax chargeable under any other provisions of this Act, within such period, not being less than seven days, as the Assessing Officer may think proper.

(8) The tax chargeable under this section shall be in addition to the tax, if any, chargeable under any other provision of this Act.

**321. Association dissolved or business discontinued.**

(1) Where any business or profession carried on by an association of persons has been discontinued or where an association of persons is dissolved, the Assessing Officer shall make an assessment of the total income of the association of persons as if no such discontinuance or dissolution had taken place, and all the provisions of this Act, including the provisions relating to the levy of a penalty or any other sum chargeable under any provision of this Act shall apply, so far as may be, to such assessment.

(2) Regardless of the generality of sub-section (1), if the Assessing Officer or the Joint Commissioner (Appeals) or the Commissioner (Appeals) in the course of any proceeding under this Act in respect of any such association of persons as is referred to in that sub-section is satisfied that the association of persons was guilty of any of the acts specified

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**in Chapter XXI, he may impose or direct the imposition of a penalty as per the provisions of that Chapter.**

**(3) Every person who was at the time of such discontinuance or dissolution a member of the association of persons, and the legal representative of any such person who is deceased, shall be jointly and severally liable for the amount of tax, penalty or other sum payable, and all the provisions of this Act, so far as may be, shall apply to any such assessment or imposition of penalty or other sum.**

**(4) Where such discontinuance or dissolution takes place after any proceedings in respect of a tax year have commenced, the proceedings may be continued against the persons referred to in sub-section (3) from the stage at which the proceedings stood at the time of such discontinuance or dissolution, and all the provisions of this Act shall, so far as may be, apply accordingly.**

**(5) Nothing in this section shall affect the provisions of section 302(4).**

**322. Company in liquidation.**

**(1) Every person,—**

**(a) who is the liquidator of any company which is being wound up, whether under the orders of a court or otherwise; or**

**(b) who has been appointed the receiver of any assets of a company, (herein referred to as the liquidator),**

**shall, within thirty days after he has become such liquidator, give notice of his appointment as such to the Assessing Officer who is entitled to assess the income of the company.**

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**(2) The Assessing Officer shall, after making such inquiries or calling for such information as he may deem fit, notify to the liquidator within three months from the date on which he receives notice of the appointment of the liquidator the amount which, in the opinion of the Assessing Officer, would be sufficient to provide for any tax which is then, or is likely thereafter to become, payable by the company.**

**(3) The liquidator—**

**(a) shall not, without the leave of the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner, part with any of the assets of the company or the properties in his hands until he has been notified by the Assessing Officer under sub-section (2); and**

**(b) on being so notified, shall set aside an amount, equal to the amount notified and, until he so sets aside such amount, shall not part with any of the assets of the company or the properties in his hands.**

**(4) The provisions of sub-section (3) shall not debar the liquidator from parting with such assets or properties for the purpose of—**

**(a) the payment of the tax payable by the company;**

**(b) making any payment to secured creditors whose debts are entitled under law to priority of payment over debts due to Government on the date of liquidation; or**

**(c) meeting such costs and expenses of the winding up of the company, as are in the opinion of the Principal Chief**

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**Commissioner or Chief Commissioner or Principal Commissioner or Commissioner, reasonable.**

**(5) If the liquidator fails to give the notice as per sub-section (1), or fails to set aside the amount as required by sub-section (3), or parts with any of the assets of the company or the properties in his hands in contravention of the provisions of that sub-section, he shall be personally liable for the payment of the tax which the company would be liable to pay.**

**(6) For the purposes of sub-section (5), if the amount of any tax payable by the company is notified under sub-section (2), the personal liability of the liquidator under that sub-section shall be to the extent of such amount.**

**(7) Where there are more liquidators than one, the obligations and liabilities attached to the liquidator under this section shall attach to all the liquidators jointly and severally.**

**(8) The provisions of this section shall have effect irrespective of anything to the contrary contained in any other law in force, except the provisions of the Insolvency and Bankruptcy Code, 2016.**

**323. Liability of directors of private company.**

**(1) Irrespective of anything contained in the Companies Act, 2013, where any tax due from—**

**(a) a private company in respect of any income of any tax year; or**

**(b) any other company in respect of any income of any tax year during which such other company was a private company,**

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cannot be recovered, then, every person, who was a director of the private company at any time during the relevant tax year, shall be jointly and severally liable for the payment of such tax unless he proves that the non-recovery cannot be attributed to any gross neglect, misfeasance or breach of duty on his part in relation to the affairs of the company.

(2) For the purposes of this section, “tax due” includes penalty, interest, fees or any other sum payable under the Act.

**324. Charge of tax in case of a firm.**

In the case of a firm which is assessable as a firm, tax shall be charged on its total income at the rate as specified in any Central Act for relevant tax year.

**325. Assessment as a Firm.**

(1) A firm shall be assessed as a firm for the purposes of this Act, if—

(a) the partnership is evidenced by an instrument; and

(b) the individual shares of the partners are specified in that instrument.

(2) A certified copy of the instrument of partnership referred to in sub-section (1) shall accompany the return of income of the firm of the tax year in respect of which assessment as a firm is first sought.

(3) For the purposes of sub-section (2), the copy of the instrument of partnership shall be certified in writing by all the partners (not being minors) or, where the return is made after the dissolution of the firm, by all persons (not being

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minors), who were partners in the firm immediately before its dissolution and by the legal representative of any such partner who is deceased.

(4) Where a firm is assessed as such for any tax year, it shall be assessed in the same capacity for every subsequent year, if there is no change in the constitution of the firm or the shares of the partners as evidenced by the instrument of partnership on the basis of which the assessment as a firm was first sought.

(5) Where any such change had taken place in the tax year, the firm shall furnish a certified copy of the revised instrument of partnership along with the return of income for such tax year, and all the provisions of this section shall apply accordingly.

(6) Irrespective of anything contained in any other provision of this Act, where, in respect of any tax year, there is on the part of a firm any such failure as is mentioned in section 271,—

(a) the firm shall be so assessed that no deduction by way of any payment of interest, salary, bonus, commission or remuneration, by whatever name called, made by such firm to any partner of such firm shall be allowed in computing the income chargeable under the head “Profits and gains of business or profession”; and

(b) such payment shall not be chargeable to income-tax under section 26(2)(g).

**326. Assessment when section 325 not complied with.**

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**Irrespective of anything contained in any other provision of this Act, where a firm does not comply with the provisions of section 325 for any tax year,—**

**(a) no deduction by way of any payment of interest, salary, bonus, commission or remuneration, by whatever name called, made by such firm to any partner of such firm shall be allowed in computing its income chargeable under the head “Profits and gains of business or profession”; and**

**(b) such interest, salary, bonus, commission or remuneration shall not be chargeable to income-tax under section 26(2)(g) in the hands of partners of such firm.**

**327. Change in constitution of a firm.**

**(1) Where at the time of making an assessment under section 270 or 271, it is found that a change has occurred in the constitution of a firm, the assessment shall be made on the firm as constituted at the time of making the assessment.**

**(2) For the purposes of this section, there is a change in the constitution of the firm—**

**(a) if one or more of the partners cease to be partners or one or more new partners are admitted, subject to the condition that at least one person who was partner of the firm before the change continues as partner after such change; or**

**(b) where all the partners continue with a change in their respective shares or in the shares of some of them.**

**(3) The provisions of sub-section 2(a) shall not apply to a case where the firm is dissolved on the death of any of its partners.**

**328. Succession of one firm by another firm.**

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Where a firm carrying on a business or profession is succeeded by another firm, except in a case covered by section 327, separate assessments shall be made on the predecessor firm and the successor firm as per the provisions of section 313.

**329. Joint and several liability of partners for tax payable by firm.**

Every person who was, during the tax year, a partner of a firm, and the legal representative of any such person who is deceased, shall be jointly and severally liable along with the firm for the amount of tax, penalty or other sum payable by the firm for the tax year, and all the provisions of this Act, so far as may be, shall apply to the assessment of such tax or imposition or levy of such penalty or other sum.

**330. Firm dissolved or business discontinued.**

(1) Where a firm is dissolved or any business or profession carried on by it has been discontinued, the Assessing Officer shall make an assessment of the total income of the firm, as if no such dissolution or discontinuance had taken place, and all the provisions of this Act, including the provisions relating to the levy of a penalty or any other sum chargeable under any provision of this Act, shall apply, so far as may be, to such assessment.

(2) Regardless of the generality of sub-section (1), if the Assessing Officer or Joint Commissioner (Appeals) or Commissioner (Appeals), in the course of any proceeding under this Act in respect of any such firm as referred to in that sub-section, is satisfied that the firm was guilty of any of the acts specified in Chapter XXI, he may impose or direct

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the imposition of a penalty as per the provisions of that Chapter.

(3) Every person who was at the time of such dissolution or discontinuance a partner of the firm, and the legal representative of any such person who is deceased, shall be jointly and severally liable for the amount of tax, penalty or other sum payable, and all the provisions of this Act, so far as may be, shall apply to any such assessment or imposition of penalty or other sum.

(4) Where such dissolution or discontinuance takes place after any proceedings in respect of a tax year have commenced, the proceedings may be continued against the person referred to in sub-section (3) from the stage at which the proceedings stood at the time of such dissolution or discontinuance, and all the provisions of this Act shall, so far as may be, apply accordingly.

(5) The provisions of this section shall not affect the provisions of section 302(4).

**331. Liability of partners of limited liability partnership in liquidation.**

Irrespective of anything contained in the Limited Liability Partnership Act, 2008, where any tax including penalty, interest, fee or any other sum payable under the Act is due and cannot be recovered from—

(a) the limited liability partnership in respect of any income of any tax year; or

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**(b) any other person in respect of any income of any tax year during which such other person was a limited liability partnership,**

**then, in such case, every such person who was a partner of such limited liability partnership at any time during the relevant tax year, shall be jointly and severally liable for the payment of such tax due unless he proves that the non-recovery cannot be attributed to any gross neglect, misfeasance or breach of duty on his part in relation to the affairs of the limited liability partnership.**

**323. Liability of directors of private company.**

**(1) The following persons may, for claiming benefits under this Part as a registered non-profit organisation, make an application for registration in such form and manner, as may be prescribed, to the Principal Commissioner or Commissioner:—**

**(a) a public trust; or**

**(b) a society registered under the Societies Registration Act, 1860, or under any law in force in India; or**

**(c) a company registered under section 8 of the Companies Act, 2013 or the companies registered under section 25 of the Companies Act, 1956 and deemed to have been registered in pursuance of section 465(2)(g) of the Companies Act, 2013; or**

**(d) a University established by law or any other educational institution affiliated thereto or recognised by the Government; or**

**(e) an institution financed wholly or in part by the Government or a local authority; or**

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**(f) any person as referred to in Schedule III (Table: Sl. No. 27) to (Table: Sl. No. 29) and (Table: Sl. No. 36) and in Schedule VII (Table: Sl. No. 10) to (Table: Sl. No. 19) and (Table: Sl. No. 42); or**

**(g) any other person notified by the Board in this behalf.**

**(2) A person referred to in sub-section (1) shall be eligible for registration, if—**

**(a) such person is constituted or registered or incorporated in India for carrying out one or more charitable purposes, as referred to in section 2(23) or one or more public religious purposes; and**

**(b) the properties of such person are held for the benefit of the general public under an irrevocable trust—**

**(i) wholly for charitable or religious purposes in India; or**

**(ii) partly for charitable or religious purposes in India, if such person was constituted or registered or incorporated prior to the commencement of the Income-tax Act, 1961.**

**(3) Every application in respect of the cases specified in column B of the Table below shall be made to the Principal Commissioner or Commissioner within the time provided in column C of the said Table, who shall, on receipt of such application, follow the procedure provided in this section and shall pass an order within the time specified in column D of the said Table, and registration, if granted, shall be valid for a period specified in column E thereof.**

**Table**

| <b>Sl.</b> | <b>Case</b> | <b>Time limit for</b> | <b>Time</b> | <b>Validity of</b> |
|------------|-------------|-----------------------|-------------|--------------------|
|------------|-------------|-----------------------|-------------|--------------------|

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| No |                                                                                                                                                                 | furnishing application                                                        | limit of passing order                                                | registratin                                                                     |
|----|-----------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------|-----------------------------------------------------------------------|---------------------------------------------------------------------------------|
| A  | B                                                                                                                                                               | C                                                                             | D                                                                     | E                                                                               |
| 1. | Where the activities of the applicant have not commenced and it has not been registered under any specified provision at any time before making the application | At any time during the tax year beginning from which registration is sought   | One month from the end of the month in which applicatio n is made.    | Three tax years commencing from the tax year in which such application is made. |
| 2. | Where the activities of the applicant have commenced and it has not been registered                                                                             | At any time during the tax year, beginning from which registration is sought. | Six months from the end of the quarter in which applicatio n is made. | Five tax years commencing from the tax year in which such application is made.  |

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|-----------|---------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------|-----------------------------------------------------------------------------|--------------------------------------------------------------------------------------|
|           | <b>under any specified provision at any time before making the application.</b>                               |                                                                                |                                                                             |                                                                                      |
| <b>3.</b> | <b>Where the applicant has been granted provisional registration and activities have commenced .</b>          | <b>Within six months of the commencement of activities.</b>                    | <b>Six months from the end of the quarter in which application is made.</b> | <b>Five tax years commencing from the tax year in which such application is made</b> |
| <b>4.</b> | <b>Where the provisional registration of the applicant is due to expire and activities have not commenced</b> | <b>At least six months prior to the expiry of the provisional registration</b> | <b>Six months from the end of the quarter in which application is made</b>  | <b>Five tax years following the tax year in which such application is made.</b>      |
| <b>5.</b> | <b>Where the registration</b>                                                                                 | <b>At least six months prior</b>                                               | <b>Six months</b>                                                           | <b>Five tax years following the</b>                                                  |

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	of the applicant is due to expire, other than cases mentioned at serial number 4.	to the expiry of the registration.	from the end of the quarter in which application is made.	tax year in which such application is made.
6.	Where the registration of the applicant has become inoperative due to switching over of regime under section 333.	At any time during tax year beginning from which the registration is sought to be made operative.	Six months from the end of the quarter in which application is made.	Five tax years commencing from the tax year in which such application is made.
7.	Where the applicant, being a registered non-profit organisation, has adopted or undertaken	Within thirty days of the date of such adoption or modification.	Six months from the end of the quarter in which application is made.	Five tax years commencing from commencement of the tax year in which such application is made.

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|--|---------------------------------------------------------------------------------------------------------------------------|--|--|--|
|  | <p><b>of its<br/>objects<br/>which do<br/>not<br/>conform to<br/>the<br/>conditions<br/>of<br/>registration<br/>.</b></p> |  |  |  |
|--|---------------------------------------------------------------------------------------------------------------------------|--|--|--|

**(4) In case the application under sub-section (3) is made beyond the time allowed in column C of the Table specified in the said sub-section, the Principal Commissioner or Commissioner may, if he considers that there is a reasonable cause for delay in furnishing the application, condone such delay and such application shall be deemed to have been made within time.**

**(5) In case the application is made under sub-section (3) (Table: Sl. Nos. 3 to 7), and the total income of such applicant, without giving effect to the provisions of this Part, does not exceed five crore rupees during each of the two tax years, preceding the tax year in which such application is made, the provisions of (Table: Sl. Nos. 3.E to 7.E) of the said sub-section, shall have effect as if for the words “five years”, the words “ten years” had been substituted.**

**(6) If any application for registration is not made within the time specified in sub-section (3) (Table: Sl. No. 3.C, 4.C, 5.C or 7.C) and the delay in filing such application is not**

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**condoned under sub-section (4), such person shall be liable to pay tax on accreted income under section 352.**

**(7) The Principal Commissioner or Commissioner shall, on an application made by an applicant in any of the cases specified in sub-section (3) (Table: Sl. Nos. 2 to 7), call for such documents or information or make such inquiries as he thinks necessary in order to satisfy himself about the genuineness of activities, and the compliance of such requirements of any other law as are material for the purpose of achieving its objects, and—**

**(a) if he is so satisfied about the objects and the genuineness of the activities and compliance of such requirements of any other law in force, shall pass an order in writing granting registration; or**

**(b) if he is not so satisfied, after affording a reasonable opportunity of being heard to the applicant shall,—**

**(i) pass an order in writing rejecting the application, where the application was made in any of the cases specified in sub-section (3) (Table: Sl. No. 2 or 6); or**

**(ii) pass an order in writing rejecting the application and also cancelling the registration in any other case specified in sub-section (3) (Table: Sl. Nos. 3, 4, 5 or 7), and send a copy of the said order to the applicant and the Assessing Officer.**

**(8) Where an application has been made in any of the cases specified in sub-section (3) (Table: Sl. No. 1), the Principal Commissioner or Commissioner shall grant provisional registration.**

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**(9) Where the registration of a person, granted prior to the 1st April, 2021 under the specified provision of the Income-tax Act, 1961, has expired and such person makes an application for registration under this Part, the Principal Commissioner or Commissioner may, if he considers that there is a reasonable cause for delay in making such application, condone such delay and grant registration to such person under this Part within three months from the end of the month in which the application is made, which shall be valid for five years from the commencement of the tax year 2021-2022.**

**(10) The order under sub-sections (7), (8) and (9) shall be passed in the form and manner, as may be prescribed.**

**333. Switching over of regimes.**

**(1) Nothing contained in section 11, other than Schedule II (Table: Sl. No. 1), Schedule III (Table: Sl. Nos. 27 to 29 and 36) and Schedule VII (Table: Sl. Nos. 10 to 19 and 42 to 45), shall exclude any income of a registered non-profit organisation from its total income for that tax year.**

**(2) The registration under section 332 shall cease to operate from the date on which the registered non-profit organisation is notified as specified in Schedule III (Table: Sl. No. 27, 28, 29 or 36) or Schedule VII (Table: Sl. No. 42), or from the 1st day of April of the tax year for a registered non-profit organisation which claims exemption under Schedule VII (Table: Sl. No. 43, 44 or 45).**

**(3) A person, whose registration ceases to operate under sub-section (2), may apply for registration under section 332 subject to the condition that the notification granting**

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exemption to such person under Schedule III (Table: Sl. No. 27, 28, 29 or 36) or Schedule VII (Table: Sl. No. 42) ceases to have effect from the date on which the said registration is granted and thereafter shall not be entitled to exemption under the respective serial numbers of the said Schedules.

**334. Tax on income of registered non-profit organisation.**

(1) The Income-tax payable by a registered non-profit organisation on its total income for any tax year shall be the aggregate of the amounts calculated—

(a) at the rate of 30% on specified income for such tax year; and

(b) at the rate applicable on taxable regular income and any residual income for such tax year under other provisions of this Act.

(2) The provisions of this Chapter shall apply irrespective of anything to the contrary contained in any other provision of this Act other than sections 96 to 98.

**335. Regular income.**

Regular income of any tax year of a registered non-profit organisation means—

(a) income from any charitable or religious activity, for which such non-profit organisation is registered, carried out by it in such tax year;

(b) income other than income covered in clause (a), derived from any property, deposit or investment held wholly for charitable or religious purposes by such registered non-profit organisation in such tax year;

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(c) income other than income covered in clause (e), derived from any property, deposit or investment held in part for charitable and religious purposes by such registered non-profit organisation as referred in section 332(2)(b)(ii) in such tax year;

(d) voluntary contributions received by such registered non-profit organisation in such tax year; and

(e) gains of any commercial activity permissible under sections 344, 345 and 346, carried out by such registered non-profit organisation in such tax year, computed in such manner, as may be prescribed.

**336. Taxable regular income.**

The taxable regular income of a registered non-profit organisation for any tax year shall be—

(a) nil, where 85% or more of the regular income of such tax year has been applied as per provisions of section 341 or accumulated under section 342 for charitable or religious purposes, in such tax year as per the provisions of this Part; and

(b) in any other case, 85% of the regular income for such tax year as reduced by its application for charitable or religious purposes as per provisions of section 341 or accumulation thereof under section 342 in such tax year as per the provisions of this Part.

**337. Specified income.**

The specified income of a registered non-profit organisation shall mean the income as specified in column B of the Table

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below and shall be taxable in the year provided in the column C thereof:–

**Table**

| Sl. No. | Specified income                                                                                                                                                                                                                                                                                                                                                                                                                                               | Tax year                                                      |
|---------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------|
| A       | B                                                                                                                                                                                                                                                                                                                                                                                                                                                              | C                                                             |
| 1.      | <p>Any anonymous donation received by a registered non-profit organisation other than a registered non-profit organisation created or established,—</p> <p>(i) wholly for religious purposes, or</p> <p>(ii) wholly for charitable and religious purposes (excluding anonymous donation made with a specific direction that such donation is for any university or other educational institution or any hospital; or other medical institution run by such</p> | <p>Tax year in which such anonymous donation is received.</p> |

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|----|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------|
|    | <p><b>registered non-profit organisation), excluding the anonymous donations up to Rs100000 or 5% of the total donations received by it during the tax year, whichever is higher.</b></p> |                                                                     |
| 2. | <p><b>Any portion of income applied by it, directly or indirectly, for the benefit of any related person, computed in the manner, as may be prescribed.</b></p>                           | <p><b>Tax year in which such application is made.</b></p>           |
| 3. | <p><b>Any portion of income applied by it outside India in contravention to the provisions of section 338(a)</b></p>                                                                      | <p><b>Tax year in which such application of income is made.</b></p> |
| 4. | <p><b>Any investment or deposit made in contravention to the provisions of section 350 out of any income, accumulated income, deemed accumulated income, corpus, deemed</b></p>           | <p><b>Tax year in which such investment or deposit is made.</b></p> |

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|-----------|---------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------|
|           | <b>corpus, or any other fund.</b>                                                                                                                       |                                                                                |
| <b>5.</b> | <b>Any deemed corpus donation in respect of which any of the conditions specified in the section 340 is violated.</b>                                   | <b>Tax year in which such violation is made</b>                                |
| <b>6.</b> | <b>Any portion of accumulated income applied to purposes other than the charitable or religious purposes for which it was accumulated or set apart.</b> | <b>Tax year in which it is so applied.</b>                                     |
| <b>7.</b> | <b>Any portion of accumulated income that ceases to be accumulated or set apart for application to the purposes specified under section 342(1).</b>     | <b>Tax year in which it ceases to be so accumulated or set apart.</b>          |
| <b>8.</b> | <b>Any portion of accumulated income not applied as per the provisions of section 341(1) to (4), for the purposes it was</b>                            | <b>Last of the tax years for which income was so accumulated or set apart.</b> |

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|            | <b>accumulated/set apart, within the period specified in section 342(1).</b>                                                                                         |                                                                                                  |
| <b>9.</b>  | <b>Any portion of accumulated income that is credited or paid to any other registered non-profit organisation.</b>                                                   | <b>Tax year in which it is so credited or paid.</b>                                              |
| <b>10.</b> | <b>Any income applied to purposes other than the charitable or religious purposes for which the organisation is registered.</b>                                      | <b>Tax year in which it is so applied.</b>                                                       |
| <b>11.</b> | <b>Any income determined by the Assessing Officer under section 344, in excess of income shown in the books of account of such business undertaking.</b>             | <b>Tax year to which such income relates.</b>                                                    |
| <b>12.</b> | <b>Fair market value of any asset, where it is not held in the forms or modes specified in paragraph 1(1) to (30) of Schedule XVI, even after expiry of one year</b> | <b>Tax year immediately following the expiry of the limitation period mentioned in Column B.</b> |

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|            | <b>from the end of the tax year in which such asset is acquired.</b>                                                                                                                      |                                                                                               |
| <b>13.</b> | <b>Any deemed application under section 341(5) not actually applied by the registered non-profit organisation for its objects in India within the period specified in section 341(6).</b> | <b>Tax year specified in section 341(6) by which such application is required to be made.</b> |

**338. Income not to be included in regular income.**

While computing the regular income of a registered non-profit organisation, the following income shall not be included:—

(a) income applied outside India, where the Board, by general or special order, directs that such income shall not be so included in its total income in case of a registered non-profit organisation—

(i) created before the 1st April, 1952 for charitable or religious purposes; or

(ii) created on or after the 1st April, 1952 for charitable purposes where such application of income outside India tends to promote international welfare in which India is interested;

(b) the corpus donation received by the registered non-profit organisation under section 339.

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339. Corpus donation.

Corpus donation means any donation made with a specific direction by the donor that it shall form part of the corpus of the registered non-profit organisation provided that such donation is invested or deposited in any of the modes permitted under section 350 maintained specifically for such corpus.

340. Deemed corpus donation.

Where the property of a registered non-profit organisation includes any temple, mosque, gurudwara, church or other place notified under section 133(1)(b)(vi), any sum or sums received by such registered non-profit organisation as donation for the purpose of renovation or repair of such temple, mosque, gurudwara, church or other place, may, at its option, be deemed as forming part of the corpus under section 339, if it—

- (a) maintains such corpus as separately identifiable;**
- (b) applies such corpus only for the purpose for which the donation was made;**
- (c) invests or deposits such corpus in any of the modes permitted under section 350; and**
- (d) does not apply such corpus for making donation to any person.**

341. Application of income.

(1) The following sums shall be allowed as application of income to a registered non-profit organisation:—

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**(a) any sum, other than the sum referred to in clause (b), applied by it for charitable or religious purpose in India for which it is registered where such sum is paid during the tax year provided that the provisions of section 35(b)(i) and section 36(4), (5), (6), and (7) shall apply in respect of such sum; and**

**(b) 85% of the sum paid by way of donation made to any other registered non-profit organisation.**

**(2) The application of income under sub-section (1) shall include the following:—**

**(a) the amount invested or deposited back during the tax year, in the modes permitted under section 350 maintained specifically for such corpus, if—**

**(i) such investment or depositing back is made within five years from the end of the tax year in which such application of income was made from the corpus; and**

**(ii) the application of income from the corpus is made after the 31st March, 2021 and there was no violation of any provision of this Part, or any corresponding provision of the Income-tax Act, 1961 with respect to such application;**

**(b) the amount repaid, during the tax year, towards any loan or borrowing where,—**

**(i) such repayment is within five years from the end of the tax year in which such application of income was made from the loan or borrowing; and**

**(ii) the application of income from the loan or borrowing is made after the 31st March, 2021 and there was no violation**

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**of any provision of this Part, or any corresponding provision of the Income-tax Act, 1961 with respect to such application.**

**(3) The following claims shall not be allowed as application of income under sub-sections (1) and (2):—**

**(a) the deduction or allowance by way of depreciation or otherwise claimed in respect of an asset acquisition of which has been claimed as an application of income in the same or any other tax year under this Part or under any corresponding provision of the Income-tax Act, 1961; or**

**(b) a claim of set off or deduction or allowance of any excess application of any of the years preceding the tax year; or**

**(c) any sum paid as a corpus donation to any other registered non-profit organisation.**

**(4) An application from corpus, loan or borrowing, accumulated income, specified income or deemed accumulated income shall not be considered as application for the purpose of sub-sections (1) and (2).**

**(5) Where, in a tax year, the regular income applied by a registered non-profit organisation towards charitable or religious purposes in India, as per the provisions of sub-sections (1) to (4), is less than 85% of regular income, the shortfall, or any part thereof, at the option of the registered non-profit organisation, may be treated as deemed application.**

**(6) Any deemed application under sub-section (5) shall be applied by the registered non-profit organisation for its objects in India,—**

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**(a) during the tax year in which the income is received or in the tax year immediately succeeding such tax year, where such shortfall is for the reason that the whole or any part of the income has not been received during that tax year;**

**(b) in the tax year immediately succeeding the tax year in which the income was derived, where such shortfall is for any other reason.**

**(7) The option under sub-section (5) shall be exercised on or before the due date specified in section 263(1) for furnishing the return of income for such tax year, in such form and manner, as may be prescribed.**

**(8) The application of income under sub-section (1) shall include deemed application under sub-section (5).**

**(9) Following income from capital gains shall be deemed as application of income—**

**(a) the capital gain from transfer of a capital asset, being property held under trust wholly for charitable or religious purposes, where the whole or any part of the net consideration is utilised for acquiring another capital asset to be so held,—**

**(i) if the whole of the net consideration is utilised in acquiring the new capital asset, the whole of such capital gain;**

**(ii) if only a part of the net consideration is utilised for acquiring the new capital asset, so much of such capital gain as is equal to the amount, if any, by which the amount so utilised exceeds the cost of the transferred asset;**

**(b) the appropriate fraction of the capital gain arising from the transfer of a capital asset, being property held under**

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**trust in part for charitable or religious purposes, where the whole or any part of the net consideration is utilised for acquiring another capital asset to be so held,—**

**(i) if the cost of acquisition of the new capital asset acquired is not less than the net consideration in respect of the capital asset transferred, the whole of appropriate fraction of such capital gain;**

**(ii) in any other case, so much of the appropriate fraction of the capital gain as is equal to the amount, if any, by which the appropriate fraction of the amount utilised for acquiring the new asset exceeds the appropriate fraction of the cost of the transferred asset.**

**(10) For the purposes of sub-section (9),—**

**(a) “appropriate fraction” means the fraction which represents the extent to which the income derived from the capital asset transferred was immediately before such transfer applicable to charitable or religious purpose;**

**(b) “cost of transferred asset” means the aggregate of the cost of acquisition (as ascertained for the purposes of sections 72 and 73) of the capital asset which is subject of the transfer and the cost of any improvement thereto within the meaning assigned to that expression in section 90(1)(b);**

**(c) “net consideration” means the full value of the consideration received or accruing as a result of the transfer of the capital asset as reduced by any expenditure incurred wholly and exclusively in connection with such transfer.**

**342. Accumulated income.**

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**(1) A registered non-profit organisation may accumulate or set apart any part of its regular income during any tax year by furnishing a statement to the Assessing Officer in such form and manner, as may be prescribed, on or before the due date specified in section 263(1) for furnishing the return of income for such tax year stating therein the purpose and period, not exceeding five years, for which the income is being accumulated or set apart.**

**(2) The amount credited or paid by a registered non-profit organisation to any other registered non-profit organisation out of its income accumulated or set apart, shall not be treated as application of income.**

**(3) The period during which the income is not applied for the purpose for which it is so accumulated or set apart pursuant to an order or injunction of any court, shall be excluded from the said period of five years.**

**(4) The income accumulated or set apart under sub-section (1) shall be invested or deposited in any of the modes permitted under section 350, or applied for the purposes as stated in the prescribed form referred to in sub-section (1).**

**(5) The registered non-profit organisation may, for the change of purpose for which income has been accumulated or set apart, make an application to the Assessing Officer, in such form and manner, as may be prescribed.**

**(6) The Assessing Officer may, on an application under sub-section (5) and subject to sub-section (2), allow the registered non-profit organisation to apply its income for such other charitable or religious purposes in India which are in conformity with its objects.**

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**(7) Where a registered non-profit organisation is dissolved, the Assessing Officer may, on an application made by such registered non-profit organisation in such form and manner, as may be prescribed, allow application of such income to be made to any other registered non-profit organisation for the year in which it is dissolved.**

**343. Deemed accumulated income.**

**(1) The regular income, as reduced by the application of income as per the provisions of section 341 and accumulated or set apart income under section 342, to the extent of 15% of regular income, shall be considered as deemed accumulated income and where such deemed accumulated income is invested or deposited, it shall be invested or deposited in any of the modes permitted under section 350.**

**(2) The deemed accumulated income under this section shall not be considered as accumulated income for the purposes of section 342.**

**344. Business undertaking held as property.**

**Where the property held by a registered non-profit organisation includes a business undertaking, and where a claim is made that the income of any such undertaking is eligible for benefits under this Part, then the Assessing Officer shall have the power to determine the income of such business undertaking as per the provisions of this Act.**

**345. Restriction on commercial activities by a registered non-profit organisation.**

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**A registered non-profit organisation (other than a registered non-profit organisation mentioned in section 346) shall not carry out any commercial activity unless—**

- (a) such commercial activity is incidental to the attainment of the objectives of the registered non-profit organisation; and**
- (b) separate books of account are maintained for such activities.**

**346. Restriction on commercial activities by registered non-profit organisation, carrying out advancement of any other object of general public utility.**

**No registered non-profit organisation, carrying out advancement of any other object of general public utility, shall carry out any commercial activity unless,—**

- (a) such commercial activity is undertaken in the course of actual carrying out of advancement of any object of the general public utility;**
- (b) the aggregate receipts from such commercial activity or activities do not exceed 20% of the total receipts of such registered non-profit organisation of the relevant tax year; and**
- (c) separate books of account are maintained by such registered non-profit organisation for such activities.**

**347. Books of account.**

**Where the total income of a registered non-profit organisation, without giving effect to the provisions of this Part, exceeds the maximum amount which is not chargeable**

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to income-tax in any tax year, such registered non-profit organisation shall be required to keep and maintain the books of account and other documents in such form and manner and at such place, as may be prescribed.

**348. Audit.**

Where the total income of a registered non-profit organisation, without giving effect to the provisions of this Part, exceeds the maximum amount which is not chargeable to income-tax in any tax year, the accounts of such registered non-profit organisation for that tax year shall be audited by an accountant and the person in receipt of the income shall be required to furnish a report of an audit of such income by such date in the prescribed form, duly signed and verified by such accountant and setting forth such particulars, as may be prescribed.

**349. Return of income.**

Where the total income of a registered non-profit organisation, without giving effect to the provisions of this Part, exceeds the maximum amount which is not chargeable to income-tax in any tax year, it shall furnish the return of income for that tax year as per the provisions of section 263(1)(a)(iii) and (2), within the time limit allowed under section 263(1)(c).

**350. Permitted modes of investment.**

(1) The modes of investing or depositing the money under this Part, shall be such as specified in Schedule XVI.

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**(2) The modes of investing or depositing money under this Part, other than the modes specified in Schedule XVI, shall be specified by the Central Government, by notification.**

**351. Specified violation.**

**(1) The following shall constitute specified violation by a registered non-profit organisation:—**

**(a) where any income of the registered non-profit organisation has been applied, other than for its objects; or**

**(b) it carries out any commercial activity in contravention of the provisions of section 345 or 346; or**

**(c) where it has applied any part of its total income for private religious purposes, which does not enure for the benefit of the public; or**

**(d) where a registered non-profit organisation, created or established after the commencement of this Act for charitable purpose, has applied any part of its income for the benefit of any particular religious community or caste other than the Scheduled Castes or the Scheduled Tribes or backward classes or women and children; or**

**(e) where any activity being carried out by the registered non-profit organisation is not genuine or is not being carried out in accordance with all or any of the conditions subject to which it was registered; or**

**(f) the registered non-profit organisation has not complied with the requirements of any other law as referred under section 332(7)(a) and the order, direction or decree, holding that such non-compliance has occurred, has either not been disputed, or has attained finality; or**

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**(g) the application referred to in section 332(1) contains any false or incorrect information.**

**(2) Where,—**

**(a) the Principal Commissioner or Commissioner has noticed occurrence of one or more specified violations during any tax year;**

**(b) the Principal Commissioner or Commissioner has received a reference from the Assessing Officer under section 270(13) for any tax year; or**

**(c) a registered non-profit organisation has been selected as per the risk management strategy formulated by the Board for any tax year, the Principal Commissioner or Commissioner shall—**

**(i) call for such documents or information from the registered non-profit organisation, or make such inquiry as he thinks necessary in order to satisfy himself about the occurrence of any specified violation;**

**(ii) pass an order in writing,—**

**(A) either cancelling the registration of such registered non-profit organisation, after affording a reasonable opportunity of being heard, for such tax year and all subsequent tax years, if he is satisfied that one or more specified violations have taken place; or**

**(B) not cancelling the registration of such registered non-profit organisation, if he is not satisfied about the occurrence of any specified violation; and**

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(iii) forward a copy of the order passed under clause (ii) to the Assessing Officer and such registered non-profit organisation.

(3) The order under sub-section (2)(ii), shall be passed before the expiry of six months, calculated from the end of the quarter in which the first notice is issued by the Principal Commissioner or Commissioner, calling for any document or information, or for making any inquiry, under clause (i) of the said sub-section.

**352. Tax on accreted income.**

(1) Every specified person shall, in addition to the income-tax chargeable in respect of his total income, be liable to pay additional income-tax on accreted income at the maximum marginal rate in any of the cases specified in column B(i) and (ii) of the Table in sub-section (4).

(2) The accreted income referred to in sub-section (1) shall be computed using the following formula:—

$$A = B - C$$

where,—

**A = Accreted income;**

**B = Aggregate fair market value of the total assets of the specified person, as on the date specified, in column C of the Table in sub-section (4), computed in accordance with such method of valuation, as may be prescribed;**

**C = Total liability of such specified person, as on the date specified in column C of the said Table, computed in**

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accordance with such method of valuation, as may be prescribed.

(3) The accreted income, computed as per the provisions of sub-section (2) shall be reduced by such amount of accreted income as is attributable to specified assets, and liabilities, if any, related to such assets.

(4) The specified person and the principal officer or trustee of such specified person shall be liable to pay the tax on accreted income to the credit of the Central Government within fourteen days from the due date specified in column D of the Table below.

**Table**

| Sl. No. | Case                                                                           |                                                                   | Specified Date                                     | Due Date for the Payment of Tax on Accreted Income                             |
|---------|--------------------------------------------------------------------------------|-------------------------------------------------------------------|----------------------------------------------------|--------------------------------------------------------------------------------|
| A       | B                                                                              |                                                                   | C                                                  | D                                                                              |
|         | (i)                                                                            | (ii)                                                              |                                                    |                                                                                |
| 1.      | The registration granted to the specified person under any specified provision | The specified person has preferred an appeal against the order of | The date of the order cancelling the registration. | Date of receipt of the order in any appeal, confirming the cancellation of the |

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|           | <b>has been cancelled or withdrawn.</b>                                                                                                     | <b>cancellation.</b>                                                                                               |                                                            | <b>registration, by the specified person.</b>                                                                                  |
| <b>2.</b> | <b>The registration granted to the specified person under any specified provision has been cancelled or withdrawn.</b>                      | <b>The specified person has not preferred an appeal against such order of cancellation.</b>                        | <b>The date of the order cancelling the registration.</b>  | <b>The date on which the period for filing appeal under section 362 against the order cancelling the registration expires.</b> |
| <b>3.</b> | <b>(a) The specified person has adopted or undertaken modification of its objects during any tax year; and (b) such modified objects do</b> | <b>The specified person has not applied for fresh registration under any specified provision in such tax year.</b> | <b>The date of adoption or modification of any object.</b> | <b>The end of such tax year.</b>                                                                                               |

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|-----------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------|
|           | <b>not conform to the conditions of registration.</b>                                                                                                                                                           |                                                                                                                                                                                                                                  |                                                                   |                                                                                                                                        |
| <b>4.</b> | <p><b>(a) The specified person has adopted or undertaken modification of its objects during any tax year; and</b></p> <p><b>(b) such modified objects do not conform to the conditions of registration.</b></p> | <p><b>The specified person has applied for fresh registration under any specified provision in such tax year and where such application has been rejected and appeal has been preferred against such order of rejection.</b></p> | <p><b>The date of adoption or modification of any object.</b></p> | <p><b>The date of receipt of the order in any appeal, confirming the cancellation of the registration by the specified person.</b></p> |
| <b>5.</b> | <p><b>(a) The specified person has adopted or undertaken</b></p>                                                                                                                                                | <p><b>The specified person has applied for fresh</b></p>                                                                                                                                                                         | <p><b>The date of adoption or modification of any object.</b></p> | <p><b>The date on which the period for filing appeal</b></p>                                                                           |

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	<p>modification of its objects during any tax year; and (b) such modified objects do not conform to the conditions of registration.</p>	<p>registration under any specified provision in the said tax year and where such application has been rejected and no appeal has been preferred against such order of rejection.</p>		<p>under section 362 against the order cancelling the registration expires.</p>
6.	<p>The specified person fails to make an application as per the provisions of— (a) sub-clause (i) or (ii) or (iii) of the first proviso to section 10</p>	<p>The period specified in the respective clause or sub-clauses or Table, as the case may be, expires in the tax year in which the said application</p>	<p>The last date for making an application for registration.</p>	<p>The end of such tax year.</p>



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|    | <p><b>(23C) of the Income-tax Act, 1961 (43 of 1961); or</b></p> <p><b>(b) sub-clause (i) or (ii) or (iii) of section 12(1) (ac) of the Income-tax Act, 1961 (43 of 1961); or</b></p> <p><b>(c) as specified in section 332(3) (Table: Sl. No. 3, 4, 5 or 7).</b></p> | <p><b>is to be made.</b></p> |                                            |                                         |
| 7. | <p><b>Where a specified person converts itself into a form which is not eligible for grant of</b></p>                                                                                                                                                                 |                              | <p><b>The date of such conversion.</b></p> | <p><b>The end of such tax year.</b></p> |

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	registration during any tax year.			
8.	The specified person has merged with any other entity other than a registered non-profit organisation having the same or similar objects and the said merger does not fulfil such conditions, as may be prescribed.		The date of merger.	The date of merger.
9.	The specified person has failed to transfer upon		The date of dissolution.	The date on which such period of twelve months expires.



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|  | <p><b>dissolution,<br/>all its assets<br/>to any other<br/>registered<br/>non-profit<br/>organisation<br/>within<br/>twelve<br/>months from<br/>the end of<br/>the month in<br/>which the<br/>dissolution<br/>takes place.</b></p> |  |  |  |
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**(5) The payment of tax on the accreted income by the specified person under this section shall be deemed as the final payment of tax in respect of the said income and no further credit therefor shall be claimed by, or any deduction be allowed to, the specified person or any other person in respect of the amount of tax so paid under any other provision of this Act.**

**(6) Where the specified person, or the principal officer or trustee of such specified person, fails to pay the whole or any part of the tax on the accreted income within the time allowed under sub-section (4), such specified person, principal officer or trustee shall be liable to pay simple interest, computed as per the following formula:—**

**$I = 1\% \text{ of } (T * P)$**

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where,—

**I = interest;**

**T = tax on accreted income; and**

**P = number of months beginning on the date immediately after the last date on which such tax was payable and ending with the date on which the tax is actually paid including part thereof.**

**(7) All the provisions of this Act shall apply for the collection and recovery of income-tax in respect of the amount of tax payable by the specified person, principal officer or trustee and the following persons shall be deemed to be assessee in default:—**

**(a) the specified person and principal officer or the trustee of such specified person;**

**(b) the person to whom any asset forming part of the computation of accreted income under sub-section (2) has been transferred, where the tax on accreted income is payable under the cases specified in sub-section (4) (Table: Sl. No. 9).**

**(8) Subject to the provisions of sub-section (7), the liability of the person referred to in clause (b) of the said sub-section shall be limited to the extent to which the asset received by him is capable of meeting the liability.**

**353. Other violations.**

**(1) Where any registered non-profit organisation—**

**(a) fails to maintain books of account under section 347; or**

**(b) fails to get books of account audited under section 348; or**

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**(c) fails to furnish its return of income under section 349; or**

**(d) carrying out advancement of any other object of general public utility, carries out any commercial activity in contravention of the provisions of section 346,**

**during any tax year, its regular income for such tax year as reduced by the expenditure referred to in sub-section (3) shall be taxable regular income which shall be chargeable to tax as per the provisions of section 334.**

**(2) Irrespective of the provisions of section 338, any the specified income and residual income of the registered non-profit organisation, which is not included in sub-section (1) shall also be chargeable to tax under the provisions of section 334.**

**(3) The expenditure referred to in sub-section (1) shall be the expenditure incurred in India (other than capital expenditure) for the objects of the registered non-profit organisation, subject to the fulfilment of the following conditions:—**

- (a) such expenditure shall be incurred in India;**
- (b) such expenditure shall be for the objects of the registered non-profit organisation;**
- (c) such expenditure is not made from the corpus standing to the credit of the registered non-profit organisation as on the end of the tax year immediately preceding the tax year for which income is being computed;**
- (d) such expenditure is not out of any loan or borrowing;**

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(e) the claim of depreciation is not in respect of an asset, acquisition of which has been claimed as application of income, in the same or any other tax year;

(f) such expenditure is not in the form of any contribution or donation to any person;

(g) such expenditure is not on account of a payment or aggregate of payments made to a person in contravention to the provisions of section 36(4), (5), (6) and (7);

(h) such payment is allowable under section 35(b)(i); and

(4) For the purposes of this section, no set off or deduction or allowance of any application or expenditure other than those referred to in sub-section (3) shall be allowed.

**354. Application for approval for purpose of section 133(1)(b)(ii).**

(1) A registered non-profit organisation or a person referred to in Schedule VII (Table: Sl. No. 1) may, for the purpose of section 133(1)(b)(ii), make an application for approval in such form and manner, as may be prescribed, to the Principal Commissioner or Commissioner, subject to the following conditions:—

(a) it is not expressed to be for the benefit of any particular religious community or caste;

(b) it is established in India for a charitable purpose and does not incur any expenditure of an amount exceeding 5% of its total income during a tax year which is of a religious nature;

(c) the instrument under which it is constituted does not, or the rules governing it do not, contain any provision for the

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**transfer at any time of the whole or any part of its assets for any purpose other than a charitable purpose;**

**(d) it maintains regular accounts of its receipts and expenditure;**

**(e) it prepares such statement for such period, as may be prescribed, and deliver or cause to be delivered to the prescribed income-tax authority or the person authorised by such authority such statement in such form and verified in such manner and setting forth such particulars and within such time, as may be prescribed;**

**(f) it delivers to the said prescribed authority, a correction statement for rectification of any mistake or to add, delete or update the information furnished in the statement delivered under clause (e) in such form and verified in such manner, as may be prescribed; and**

**(g) it furnishes a certificate to the donor specifying the amount of donation within such period from the date of receipt of the donation containing the requisite particulars in manner, as may be prescribed.**

**(2) The application under sub-section (1) shall be made in respect of the cases referred to in column B of the Table below within the time limit provided in column C of the said Table and the Principal Commissioner or Commissioner, on receipt of such application, shall follow the procedure provided in sub-sections (3) and (4), and shall pass an order in writing within the time limit provided in column D and approval, if granted, shall be valid for a period provided in column E of the said Table.**

**Table**

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Sl. No.	Case	Time limit for furnishing application	Time limit for passing the order	Validity of approval
A	B	C	D	E
1.	Where the activities of the applicant have not commenced.	At any time during the tax year from which approval is sought.	One month from the end of the month in which application is made.	Three tax years commencing from the tax year in which such application is made.
2.	Where the activities of the applicant have commenced.	At any time during the tax year from which approval is sought.	Six months from the end of the quarter in which application is made.	Five tax years commencing from the tax year in which such application is made.
3.	Where the applicant has provisional approval and activities have commenced	Within six months of the commencement of activities.	Six months from the end of the quarter in which application is made.	Five tax years commencing from the tax year in which such application is made.

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|----|-----------------------------------------------------------------------------------------------------|----------------------------------------------------------------------|----------------------------------------------------------------------|--------------------------------------------------------------------------|
|    | .                                                                                                   |                                                                      |                                                                      |                                                                          |
| 4. | Where the provisional approval of the applicant is due to expire and activities have not commenced. | At least six months prior to the expiry of the provisional approval. | Six months from the end of the quarter in which application is made. | Five tax years following the tax year in which such application is made. |
| 5. | Where the period for approval of a registered non-profit organisation is due to expire.             | At least six months prior to the expiry of the said approval.        | Six months from the end of the quarter in which application is made. | Five tax years following the tax year in which such application is made. |

**(3) Where an application has been made in any of the cases specified under sub-section (2) (Table: Sl. No. 2 to 5), the Principal Commissioner or Commissioner shall call for such documents or information or make such inquiries as he thinks necessary in order to satisfy himself about the genuineness of the activities, and compliance of such requirements of any other law in force, as are material for the purposes of achieving its objects, and—**

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(a) if he is so satisfied about the objects and the genuineness of the activities and compliance of such requirements of any other law in force, he shall pass an order in writing approving it; or

(b) if he is not so satisfied, after affording a reasonable opportunity of being heard,—

(i) shall pass an order in writing rejecting the application, where the application was made in any of the cases specified in sub-section (2) (Table: Sl. No. 2); and

(ii) in any other case, shall pass an order in writing rejecting the application and also cancelling the approval,

and send a copy of the order to the applicant and the Assessing Officer.

(4) Where an application has been made in any of the cases specified in sub-section (2) (Table: Sl. No. 1), the Principal Commissioner or Commissioner shall pass an order granting provisional approval.

**355. Interpretation.**

For the purposes of this Part,—

(a) “anonymous donation” means any voluntary contribution referred to in section 2(49)(c), where a person receiving such contribution does not maintain a record of the identity indicating the name and address of the person making such contribution and such other particulars, as may be prescribed;

(b) “approval” means an approval under the second proviso to section 80G(5) of the Income-tax Act, 1961 or section 354;

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- (c) “cancellation” includes withdrawal;**
- (d) “donation” means any voluntary contribution received by a registered non-profit organisation from any person;**
- (e) “commercial activity” means any activity in the nature of trade, commerce or business, or any activity of rendering any service in relation to any trade, commerce or business, for a cess or fee or any other consideration, irrespective of the nature of use or application, or retention, of the income from such activity;**
- (f) “registration” includes provisional registration, provisional approval or approval, as referred to in the second proviso to section 10(23C) or 12AB (1) of the Income-tax Act, 1961 and under section 332, but shall not include approval under the second proviso to section 80G(5) of the said Act or section 354;**
- (g) “registered non-profit organisation” means any person having a valid registration under any specified provision and such registration has not been cancelled;**
- (h) “related person” means any of the following persons:—**

  - (i) the author or the founder of the registered non-profit organisation;**
  - (ii) any person whose total contribution to such registered non-profit organisation, during the relevant tax year exceeds Rs 100000, or, in aggregate up to the end of the relevant tax year exceeds ten lakh rupees, as the case may be;**
  - (iii) where such author, founder or person is a Hindu undivided family, a member of the family;**

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**(iv) any trustee or manager (by whatever name called) of the registered non-profit organisation;**

**(v) any relative of any persons referred to in sub-clause (i), (iii) or (iv);**

**(vi) any concern in which any of the persons referred to in sub-clauses (i), (iii), (iv) or (v) has a substantial interest;**

**(i) “relative”, in relation to an individual, means—**

**(i) spouse of the individual;**

**(ii) brother or sister of the individual;**

**(iii) brother or sister of the spouse of the individual;**

**(iv) any lineal ascendant (maternal or paternal) or descendant of the individual;**

**(v) any lineal ascendant (maternal or paternal) or descendant of the spouse of the individual;**

**(vi) spouse of a person referred to in sub-clause (ii), (iii), (iv) or (v);**

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

**(j) “residual income” means the total income without giving effect to the provisions of this Part, as reduced by regular income and specified income;**

**(k) “specified asset” means any asset which is established to have been directly acquired by the specified person—**

**(i) out of its income of the nature referred to in Schedule II (Table: Sl. No. 1);**

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**(ii) during the period beginning from the date of its creation or establishment and ending on the date from which the registration under specified provision became effective, if the specified person has not been allowed any benefit under this Part or under sections 11 and 12 or section 10(23C)(iv) or (v) or (vi) or (via) of the Income-tax Act, 1961 during the said period, where provisions of the first proviso or the second proviso to sub-section 12A(2) or the eighth proviso to section 10(23C) of the said Act, are not applicable;**

**(iii) during the period beginning from the date of its creation or establishment and ending on the date from which the registration under specified provision became effective due to the provisions of the first proviso or the second proviso to section 12A(2) or the eighth proviso to section 10(23C), where provisions of the first proviso or the second proviso to section 12A(2) or the eighth proviso to section 10(23C), of the Income-tax Act, 1961, are applicable; and**

**(iv) which has been transferred to any other specified person within twelve months from the end of the month in which the dissolution takes place in respect of a case specified in section 352(4) (Table: Sl. No. 9);**

**(l) “specified person” means any person which is registered under any specified provision at any time since its incorporation or creation;**

**(m) “specified provision” means section 12A, 12AA or 12AB or section 10(23C) of the Income-tax Act, 1961 or section 332;**

**(n) “substantial interest”, in relation to a person in a concern, means—**

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**(i) in a case where the concern is a company, if its shares (not being shares entitled to a fixed rate of dividend whether with or without a further right to participate in profits) carrying not less than 20% of the voting power are, at any time during the tax year, owned beneficially by such person or partly by such person and partly by one or more of the other related persons; or**

**(ii) in the case of any other concern, if such person is entitled, or such person and one or more of the other related persons are entitled in the aggregate at any time during the tax year, to not less than 20% of the profits of such concern;**

**(o) “value” means the value of any benefit or facility granted or provided free of cost or at concessional rate to any related person;**

**(p) “wholly for charitable or religious purposes” shall mean wholly for charitable purposes or wholly for religious purposes or wholly for charitable and religious purposes.**

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