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### **108(1): Set-Off of Losses Within the Same Head of Income**

Unless provided otherwise in this Act, for any tax year, if net result of computation from any source under any head of income (other than “Capital gains”) is a loss, then assessee shall be entitled to set off such loss against his income from any other source under the same head for that tax year.

### **108(2): Set-Off of Capital Losses**

Where the net result of computation of income made for any tax year under sections 72 to 90 in respect of—

- (a) any short-term capital asset is a loss, such loss shall be set off against the income, computed in respect of any other capital asset for that year;

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(b) any long-term capital asset is a loss, such loss shall be set off against the income computed in respect of any other long-term capital asset for that year.

## **109. SET OFF OF LOSSES UNDER ANY OTHER HEAD OF INCOME.**

### **109(1): Set-Off of Losses Across Different Heads of Income**

Subject to the provisions of this Chapter, for any tax year, if income computed under any head of income (other than “Capital gains”) is a loss, such loss shall be set off against income of the assessee under any other head, including “Capital gains”, if any, assessable for that tax year, subject to the following conditions:—

(a) loss under the head “Profits and gains of business or profession” shall not be set off against income assessable under the head “Salaries”; and

(b) loss under the head “Income from house property” shall be set off to the extent of ₹ 200000 against income under any other head;

### **109(2): Restriction on Set-Off of Capital Losses**

For any tax year, the loss under the head “Capital gains” shall not be set off against income under any other head.

## **110. CARRY FORWARD AND SET OFF OF LOSS FROM HOUSE PROPERTY.**

### **110(1): Carry Forward and Set-Off of Loss from House Property**

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Where for any tax year, loss computed under the head “Income from house property” cannot be wholly set off against the income under any other head as per section 109, so much of the loss not so set off or the whole loss, as the case may be, shall be carried forward to the following tax year and—

(a) be set off only against the income from house property, if any, assessable for that tax year; and

(b) if the loss cannot be wholly so set off, the amount of loss not so set off shall be carried forward to the following tax year and so on.

### **110(2): Time Limit for Carry Forward of House Property Loss**

No loss shall be carried forward under this section for more than eight tax years immediately succeeding the tax year for which the loss was first computed.

## **111. CARRY FORWARD AND SET OFF OF LOSS FROM CAPITAL GAINS.**

### **111(1): Carry Forward and Set-Off of Loss from Capital Gains**

(a) Where for any tax year, loss computed under the head “Capital gains” cannot be wholly set off against the income under the head “Capital gains” as per section 108, so much of the loss not so set off or the whole loss, as the case may be, shall be carried forward to the following tax year and shall be set off in the following manner—

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(i) if such loss relates to a short-term capital asset, it shall be set off only against the income under the head “Capital gains”, if any, assessable for that tax year in respect of any other capital asset;

(ii) if such loss relates to a long-term capital asset, it shall be set off only against the income under the head “Capital gains”, if any, assessable for that tax year in respect of any other long-term capital asset; and

(b) if the loss cannot be wholly so set off under clause (a), the amount of loss not so set off shall be carried forward to the following tax year and so on.

**111(2): Time Limit for Carry Forward of Capital Losses**

No loss shall be carried forward under this section for more than eight tax years immediately succeeding the tax year for which the loss was first computed.

**112. CARRY FORWARD AND SET OFF OF BUSINESS LOSS.**

**112(1): Carry Forward and Set-Off of Business Loss**

Where for any tax year, loss computed under the head “Profits and gains of business or profession” (not being a loss sustained in a speculation business) cannot be wholly set off against the income under any other head as per section 109, so much of the loss not so set off or the whole loss, as the case may be, shall be carried forward to the following tax year and—

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**(i) be set off against the profits and gains, if any, of any business or profession carried on by him for that tax year; and**

**(ii) if the loss cannot be wholly so set off, the amount of loss not so set off shall be carried forward to the following tax year and so on.**

**112(2): Time Limit for Carry Forward of Business Losses**

**No loss shall be carried forward under this section for more than eight tax years immediately succeeding the tax year for which the loss was first computed.**

**112(3): Priority of Set-Off for Carried Forward Allowances**

**Where any allowance of part thereof under section 33(11) or 45(7) is to be carried forward, effect shall first be given to the provision of this section.**

**113. SET OFF AND CARRY FORWARD OF LOSSES COMPUTED IN RESPECT OF SPECULATION BUSINESS.**

**113(1): Set-Off of Speculation Business Losses**

**Any loss, computed in respect of a speculation business carried on by the assessee shall be set off only against profits and gains of another speculation business.**

**113(2): Carry Forward and Set-Off of Speculation Business Losses**

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Where for any tax year, loss computed in respect of a speculation business cannot be wholly set off under subsection (1), so much of the loss not so set off or the whole loss, as the case may be, shall be carried forward to the following tax year and—

- (i) be set off against the profits and gains, if any, of any speculation business carried on by him for such tax year; and
- (ii) if the loss cannot be wholly so set off, the amount of loss not so set off shall be carried forward to the following tax year and so on.

### **113(3): Time Limit for Carry Forward of Speculation Losses**

No loss shall be carried forward under this section for more than four tax years immediately succeeding the tax year for which the loss was first computed.

### **113(4): Priority of Set-Off for Speculation Business Allowances**

Where any allowance of part thereof under section 33(11) or 45(7) related to the speculation business is to be carried forward, effect shall first be given to the provision of this section.

### **113(5): Deemed Speculation in Share Trading by Companies**

In this section, where any part of the business of the assessee (being a company) consists of purchase and sale of shares of other companies, then the assessee shall be deemed to be

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carrying on a speculation business, to the extent to which its business consists of purchase and sale of such shares.

**113(6): Exceptions to Deemed Speculation for Share Trading Companies**

The provisions of sub-section (5) shall not apply to an assessee, being a company, if—

(a) its gross total income consists mainly of income which is chargeable under the heads “Income from house property”, “Capital gains” or “Income from other sources”; or

(b) its principal business is of trading in shares or banking or the granting of loans and advances.

**114. SET OFF AND CARRY FORWARD OF LOSSES COMPUTED IN RESPECT OF SPECIFIED BUSINESS.**

**114(1): Set-Off of Losses from Specified Business**

Any loss, computed in respect of a specified business, referred to in section 46, shall be set off only against profits and gains of another specified business.

**114(2): Carry Forward and Set-Off of Specified Business Losses**

Where for any tax year, loss computed in respect of a specified business cannot be wholly set off under sub-section (1), so much of the loss not so set off or the whole loss, as the case may be, shall be carried forward to the following tax year and—

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- (i) be set off against the profits and gains, if any, of any specified business carried on by him for such tax year; and
- (ii) if the loss cannot be wholly so set off, the amount of loss not so set off shall be carried forward to the following tax year and so on.

## **115. SET OFF AND CARRY FORWARD OF LOSSES FROM SPECIFIED ACTIVITY.**

### **115(1): Set-Off of Losses from Specified Activity**

Any loss incurred by the assessee in specified activity in any tax year shall be set off only against income from specified activity.

### **115(2): Carry Forward and Set-Off of Losses from Specified Activity**

Where for any tax year, loss computed in respect of a specified activity cannot be wholly set off under sub-section (1), so much of the loss not so set off or the whole loss, as the case may be, shall be carried forward to the following tax year and—

- (i) be set off against the income, if any, of the specified activity carried on by him for such tax year; and
- (ii) if the loss cannot be wholly so set off, the amount of loss not so set off shall be carried forward to the following tax year and so on.

### **115(3): Time Limit for Carry Forward of Losses from Specified Activity**

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**No loss shall be carried forward under this section for more than four tax years immediately succeeding the tax year for which the loss was first computed.**

### **115(4): Definitions for Specified Activity**

**For the purposes of this section—**

**(a) “horse race” means a horse race upon which wagering or betting may be lawfully made;**

**(b) “income by way of stake money” means the gross amount of prize money received on a race horse or race horses by the owner thereof on account of the horse or horses or any one or more of the horses winning a particular position in horse race;**

**(c) “loss incurred by the assessee in specified activity” means the amount by which the income by way of stake money, if any, falls short of the expenditure, not being capital expenditure, incurred wholly and exclusively for maintaining race horses;**

**(d) “race horses” means horses owned and maintained by assessee for running in a horse race;**

**(e) “specified activity” means the activity of owning and maintaining race horses.**

## **116. TREATMENT OF ACCUMULATED LOSSES AND UNABSORBED DEPRECIATION IN AMALGAMATION OR DEMERGER, ETC**

### **116(1): Treatment in Cases of Amalgamation or Demerger**

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**Where there has been an amalgamation of,—**

**(a) a company owning an industrial undertaking or a ship or a hotel with another company; or**

**(b) a banking company referred to in section 5(c) of the Banking Regulation Act, 1949 with a specified bank; or**

**(c) one or more public sector company with one or more other public sector company; or**

**(d) an erstwhile public sector company with one or more company or companies, if the share purchase agreement entered into under strategic disinvestment restricted immediate amalgamation of the said public sector company and the amalgamation is carried out within five years from the end of the tax year in which the restriction on amalgamation in the share purchase agreement ends,**

**then, irrespective of anything contained in any other provision of this Act, the accumulated loss and unabsorbed depreciation of the amalgamating company shall be deemed to be the loss or, allowance for unabsorbed depreciation of the amalgamated company for the tax year in which the amalgamation was effected, and other provisions of this Act relating to set off and carry forward of loss and allowance for depreciation shall apply accordingly.**

**116(2): Limit in Strategic Disinvestment Amalgamations**

**The accumulated loss and the unabsorbed depreciation of the amalgamating company, in case of an amalgamation referred to in sub-section (1)(d), which is deemed to be the loss or, as the case may be, the unabsorbed depreciation of the**

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**amalgamated company, shall not exceed the accumulated loss and unabsorbed depreciation of the public sector company as on the date on which it ceases to be a public sector company due to such strategic disinvestment.**

**116(3): Definitions for Strategic Disinvestment and Related Terms**

**For the purposes of sub-section (1)(d),—**

**(a) “control” shall have the same meaning as assigned to it in section 2(27) of the Companies Act, 2013;**

**(b) “erstwhile public sector company” means a company which was a public sector company in earlier tax years and ceases to be so due to strategic disinvestment by the Government;**

**(c)(i) “strategic disinvestment” means sale of shareholding by the Central Government or State Government or a public sector company, in a public sector company or in a company, which results in—**

**(A) reduction of its shareholding to below 51%; and**

**(B) transfer of control to the buyer;**

**(ii) for clause(c)(i)(A), the reduction of shareholding shall apply only where shareholding of the Central Government or the State Government or the public sector company exceeded 51% before the sale of shareholding;**

**(iii) the transfer of control referred to in clause (c)(i)(B) may be effected by the Central Government or the State Government or the public sector company or any two or all of them.**

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### **116(4): Conditions in Amalgamation**

Irrespective of anything contained in sub-section (1), (2) and (3), the accumulated loss shall not be set off or carried forward and the unabsorbed depreciation shall not be allowed in the assessment of the amalgamated company unless,—

(a) the amalgamating company—

(i) has been engaged in the business, in which the accumulated loss occurred or depreciation remains unabsorbed, for three or more years;

(ii) has held continuously as on the date of the amalgamation, at least three-fourths of the book value of fixed assets held by it two years preceding the date of amalgamation;

(b) the amalgamated company—

(i) holds continuously for a minimum of five years from the date of amalgamation at least three-fourths of the book value of fixed assets of the amalgamating company acquired in a scheme of amalgamation;

(ii) continues the business of the amalgamating company for a minimum of five years from the date of amalgamation;

(iii) fulfils such other conditions as may be prescribed to ensure the revival of the business of the amalgamating company or to ensure that the amalgamation is for genuine business purpose.

### **116(5): Consequence of Non-Compliance with Amalgamation Conditions**

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If any of the conditions laid down in sub-section (4) are not complied with, the set off of loss or allowance of depreciation made in any tax year in the hands of the amalgamated company shall be deemed to be the income of the amalgamated company chargeable to tax for the year in which the non-compliance occurs.

### **116(6): Treatment in Case of Demerger**

Irrespective of anything contained in any other provisions of this Act, in the case of a demerger, the accumulated loss and the allowance for unabsorbed depreciation of the demerged company shall,—

(a) if directly relatable to the undertakings transferred to the resulting company, be allowed to be carried forward and set off in the hands of the resulting company;

(b) if not directly relatable to the undertakings transferred to the resulting company, be apportioned between the demerged company and the resulting company in the same proportion in which the assets of the undertakings have been retained by the demerged company and transferred to the resulting company, and shall be allowed to be carried forward and set off in the hands of the demerged company or the resulting company, as applicable.

### **116(7): Conditions for Ensuring Genuine Business Purpose in Demerger**

The Central Government may, by notification, specify such conditions to ensure that the demerger is for genuine business purposes.

### **116(8): Treatment in Business Reorganisation**

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If there has been reorganisation of business where, a firm is succeeded by a company fulfilling the conditions laid down in section 70(1)(zd) or a proprietary concern is succeeded by a company fulfilling the conditions laid down in section 70(1)(zf), then, irrespective of anything contained in any other provision of this Act, the accumulated loss and the unabsorbed depreciation of the predecessor firm or the proprietary concern, shall be deemed to be the loss or allowance for depreciation of the successor company for the tax year in which business reorganisation was effected and other provisions of this Act relating to set off and carry forward of loss and allowance for depreciation shall apply accordingly, subject to provisions of sub-section (9).

**116(9): Consequence of Non-Compliance in Business Reorganisation**

If any of the conditions laid down in section 70(1)(zd) or (zf), as the case may be, are not complied with, the set off of loss or allowance of depreciation made in any tax year in the hands of the successor company, shall be deemed to be the income of the company chargeable to tax in the year in which the non-compliance occurs.

**116(10): Treatment in Conversion of Company to LLP**

If there has been reorganisation of business whereby a private company or unlisted public company is succeeded by a limited liability partnership fulfilling the conditions laid down in section 70(1)(ze), then, irrespective of anything contained in any other provision of this Act, the accumulated loss and the unabsorbed depreciation of the predecessor

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company, shall be deemed to be the loss or allowance for depreciation of the successor limited liability partnership for the tax year in which business reorganisation was effected and other provisions of this Act relating to set off and carry forward of loss and allowance for depreciation shall apply accordingly, subject to provisions of sub-section (11).

**116(11): Consequence of Non-Compliance in Company-to-LLP Conversion**

If any of the conditions laid down in section 70(1) (ze) are not complied with, the set off of loss or allowance of depreciation made in any tax year in the hands of the successor limited liability partnership, shall be deemed to be the income of the limited liability partnership chargeable to tax in the year in which the non-compliance occurs.

**116(12): Time Limit in Amalgamation or Business Reorganisation**

For any amalgamation referred to in sub-section (1) or reorganisation of business referred to in sub-section (8) or (10) effected on or after the 1st April, 2025, any loss forming part of the accumulated loss of the predecessor entity, being—

- (i) the amalgamating company; or
- (ii) the firm or proprietary concern; or
- (iii) the private company or unlisted public company, as the case may be, which is deemed to be the loss of the successor entity, being—
  - (a) the amalgamated company; or

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**(b) the successor company; or**

**(c) the successor limited liability partnership, as the case may be, shall be carried forward for not more than eight tax years immediately succeeding the tax year for which such loss was first computed for the original predecessor entity.**

**116(13): Definitions for Treatment of Accumulated Losses and Unabsorbed Depreciation**

**For the purposes of this section,—**

**(a) “accumulated loss” means so much of the loss of the predecessor firm or the proprietary concern or the private company or unlisted public company before conversion into limited liability partnership or the amalgamating company or the demerged company, under the head “Profits and gains of business or profession” (excluding loss in a speculation business) which would have been eligible for carry forward and set off to such predecessor entity under section 112, had the reorganisation of business or conversion or amalgamation or demerger not occurred;**

**(b) “industrial undertaking” means any undertaking which is engaged in—**

**(i) the manufacture or processing of goods; or**

**(ii) the manufacture of computer software; or**

**(iii) the business of generation or distribution of electricity or any other form of power; or**

**(iv) the business of providing telecommunication services, whether basic or cellular, including radio paging, domestic**

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satellite service, network of trunking, broadband network and internet services; or

(v) mining; or

(vi) the construction of ships, aircrafts or rail systems;

(c) “original predecessor entity” means predecessor entity in respect of the first amalgamation for sub-section (1) or first reorganisation of business for sub-sections (8) and (10), as the case may be;

(d) “specified bank” means the State Bank of India constituted under the State Bank of India Act, 1955 or a corresponding new bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 or under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980;

(e) “unabsorbed depreciation” means so much of the allowance for depreciation of the predecessor firm or the proprietary concern or the private company or unlisted public company before conversion into limited liability partnership or the amalgamating company or the demerged company, which remains to be allowed and which would have been allowed to such predecessor entity under this Act, had the reorganisation of business or conversion or amalgamation or demerger not occurred.

## **117. TREATMENT OF ACCUMULATED LOSSES AND UNABSORBED DEPRECIATION IN SCHEME OF AMALGAMATION IN CERTAIN CASES.**

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**117(1): Treatment in Certain Banking and Government Company Amalgamations**

Irrespective of anything contained in section 2(6)(a) to (c) or section 116, where there has been an amalgamation of,—

**(a) one or more banking company with—**

**(i) any other banking institution under a scheme sanctioned and brought into force by the Central Government under section 45(7) of the Banking Regulation Act, 1949; or**

**(ii) any other banking institution or a company following a strategic disinvestment, wherein the amalgamation occurs within five years from the end of the tax year during which such disinvestment is carried out; or**

**(b) one or more corresponding new bank or banks with any other corresponding new bank under a scheme brought into force by the Central Government under section 9 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 or under section 9 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980, or both; or**

**(c) one or more Government company or companies with any other Government company under a scheme sanctioned and brought into force by the Central Government under section 16 of the General Insurance Business (Nationalisation) Act, 1972,**

**the accumulated loss and unabsorbed depreciation of such banking company or companies or amalgamating corresponding new bank or banks or amalgamating Government company or companies, shall be deemed to be**

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the loss or, allowance for depreciation of the banking institution or company or amalgamated corresponding new bank or amalgamated Government company for the tax year in which the scheme of amalgamation was brought into force and other provisions of this Act relating to set off and carry forward of loss and allowance for depreciation shall apply accordingly.

### **117(2): Time Limit in Certain Amalgamations**

Where any scheme of amalgamation as referred to in subsection (1) is brought into force on or after the 1st April, 2025, any loss forming part of the accumulated loss of the predecessor entity, being—

- (i) the banking company or companies;
- (ii) the amalgamating corresponding new bank or banks; or
- (iii) the amalgamating Government company or companies, as the case may be, which is deemed to be the loss of the successor entity, being—
  - (a) the banking institution or company; or
  - (b) the amalgamated corresponding new bank or banks; or
  - (c) the amalgamated Government company or companies, as the case may be, shall be carried forward in the hands of the successor entity for not more than eight tax years immediately succeeding the tax year for which such loss was first computed for original predecessor entity.

### **117(3): Definitions in Certain Amalgamations**

For the purposes of this section,—

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**(a) “accumulated loss” means so much of the loss of the amalgamating banking company or companies or amalgamating corresponding new bank or banks or amalgamating Government company or companies under the head “Profits and gains of business or profession” (excluding losses of a speculation business) which such predecessor entity would have been entitled to carry forward and set off under section 112 had the amalgamation not occurred;**

**(b) “banking company” shall have the same meaning as assigned to it in section 5(c) of the Banking Regulation Act, 1949;**

**(c) “banking institution” shall have the same meaning as assigned to it in section 45(15) of the Banking Regulation Act, 1949;**

**(d) “corresponding new bank” shall have the same meaning as assigned to it in section 2(d) of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970, or section 2(b) of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980;**

**(e) “general insurance business” shall have the same meaning as assigned to it in section 3(g) of the General Insurance Business (Nationalisation) Act, 1972;**

**(f) “Government company” means a Government company as defined in section 2(45) of the Companies Act, 2013, engaged in the general insurance business and established under section 4 or 5 or 16 of the General Insurance Business (Nationalisation) Act, 1972;**

**(g) “original predecessor entity” means predecessor entity in respect of the first amalgamation;**

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**(h) “strategic disinvestment” shall have the meaning assigned to it in section 116(3)(c)(i);**

**(i) “unabsorbed depreciation” means the allowance for depreciation of the amalgamating banking company or companies or amalgamating corresponding new bank or banks or amalgamating Government company or companies which remains to be allowed and which would have been allowed to such predecessor entity, had the amalgamation not occurred.**

## **118. CARRY FORWARD AND SET OFF OF LOSSES AND UNABSORBED DEPRECIATION IN BUSINESS REORGANISATION OF CO-OPERATIVE BANKS.**

### **118(1): Carry Forward and Set-Off of Losses and Depreciation in Co-operative Bank Reorganisation**

**The assessee, being a successor co-operative bank, shall, in a case where the amalgamation has taken place during the previous year, be allowed to set off the accumulated loss and the unabsorbed depreciation, if any, of the predecessor co-operative bank as if the amalgamation had not taken place, and all the other provisions of this Act relating to set off and carry forward of loss and allowance for depreciation shall apply accordingly.**

### **118(2): Treatment of Losses and Depreciation in Demerger of Co-operative Banks**

**In case of a co-operative bank where demerger takes place during the tax year, and where the accumulated loss or**

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**unabsorbed depreciation of the demerged co-operative bank—  
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**(a) is directly relatable to the undertaking transferred, the whole of such accumulated loss or unabsorbed depreciation shall be allowed to be carried forward and set off against the income of the resulting co-operative bank; and**

**(b) is not directly relatable to the undertaking transferred, then such accumulated loss or unabsorbed depreciation shall first be apportioned between the demerged co-operative bank and the resulting co-operative bank in the same proportion in which assets of the undertaking are distributed between the demerged co-operative bank and the resulting co-operative bank, and be allowed to be carried forward and set off against their respective incomes.**

**118(3): Conditions for Applicability in Business Reorganisation of Co-operative Banks**

**The provisions of this section shall apply, if—**

**(a) the predecessor co-operative bank—**

**(i) has been engaged in the business of banking for three or more years; and**

**(ii) has held at least three-fourths of the book value of fixed assets as on the date of the business reorganisation, continuously for two years before the date of business reorganisation;**

**(b) the successor co-operative bank,—**

**(i) holds at least three-fourths of the book value of fixed assets of the predecessor co-operative bank acquired through**

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**business reorganisation, continuously for a minimum five years immediately succeeding the date of business reorganisation;**

**(ii) continues the business of the predecessor co-operative bank for a minimum five years from the date of business reorganisation; and**

**(iii) fulfils such other conditions, as may be prescribed, to ensure the revival of the business of the predecessor co-operative bank or to ensure that the business reorganisation is for genuine business purpose.**

**118(4): Power of Central Government to Prescribe Conditions for Genuine Business Reorganisation**

The Central Government may, by notification, specify such other conditions as it may consider necessary, other than the condition referred to in sub-section (3)(b)(iii), for the purposes of ensuring that the business reorganisation is for genuine business purposes.

**118(5): Consequence of Non-Compliance with Conditions in Co-operative Bank Reorganisation**

In a case where any of the conditions referred to in sub-section (3) or notified under sub-section (4) are not complied with, the set off of accumulated business loss or unabsorbed depreciation made in any tax year in the hands of the successor co-operative bank shall be deemed to be the income of the successor co-operative bank chargeable to tax for the year in which such conditions are not complied with.

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## **118(6): Division of Tax Year for Set-Off and Carry Forward Purposes**

The period commencing from the beginning of the tax year and ending on the date immediately preceding the date of business reorganisation, and the period commencing from the date of such business reorganisation and ending with the tax year, shall be deemed to be two different tax years for the purposes of set off and carry forward of loss and allowance for depreciation.

## **118(7): Definitions for Business Reorganisation of Co-operative Banks**

For the purposes of this section,—

(a) “accumulated loss” means so much of the loss of amalgamating co-operative bank or demerged co-operative bank as referred to in section 112 in the hands of predecessor co-operative bank, which such predecessor co-operative bank would have been entitled to carry forward and set off under the said section, as if the business reorganisation had not taken place;

(b) “amalgamated co-operative bank”, “amalgamating co-operative bank”, “amalgamation”, “business reorganisation”, “demerged co-operative bank”, “demerger”, “predecessor co-operative bank”, “successor co-operative bank” and “resulting co-operative bank” shall have the meanings respectively assigned to them in section 65;

(c) “unabsorbed depreciation” means so much of the allowance for depreciation in the hands of amalgamating co-operative bank or demerged co-operative bank, which

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remains to be allowed and which would have been allowed to such banks, if the business reorganisation had not taken place.

## **119. CARRY FORWARD AND SET OFF OF LOSSES NOT PERMISSIBLE IN CERTAIN CASES.**

### **119(1): Restriction on Carry Forward of Losses in Case of Change in Firm’s Constitution**

In case of change in constitution of a firm during a tax year, nothing in this Chapter shall entitle the firm to have carried forward and set off so much of the loss proportionate to the share of a retired or deceased partner as exceeds his share of profits, if any, in the firm in respect of the tax year.

### **119(2): Restriction on Carry Forward of Losses When Business Is Transferred**

If any person carrying on any business or profession has been succeeded in such capacity by another person, otherwise than by inheritance, nothing in this Chapter shall entitle any person other than the person incurring the loss to have it carried forward and set off against his income.

### **119(3): Restriction on Carry Forward of Losses in Case of Change in Shareholding**

Irrespective of anything contained in this Chapter, in case of a change in shareholding during the tax year of a company (not being a company in which the public are substantially interested),—

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(a) no loss incurred in any year prior to the tax year shall be carried forward and set off against the income of the tax year unless on the last day of the tax year, the shares of the company carrying not less than 51% of the voting power were beneficially held by the person who beneficially held shares of the company carrying not less than 51% of the voting power on the last day of the year or years in which the loss was incurred; and

(b) regardless of the change in percentage of shareholding, where the company is an eligible start up referred to in section 140, the loss incurred in any year prior to the tax year shall be allowed to be carried forward and set off against the income of the tax year, if—

(i) all the shareholders of such company who held shares carrying voting power on the last day of the year or years in which the loss was incurred, continue to hold those shares on the last day of such tax year; and

(ii) such loss has been incurred during the period of ten years beginning from the year in which such company is incorporated.

**119(4): Exceptions to Restriction on Carry Forward of Losses Due to Change in Shareholding**

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

(a) where a change in the voting power and shareholding takes place in the tax year referred to in that sub-section due to death of shareholder or transfer of shares by way of gift to any relative of the shareholder; or

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**(b) where change in shareholding of Indian company, being a subsidiary of foreign company, takes place due to amalgamation or demerger of the foreign company and 51% of the shareholders of amalgamating or demerged foreign company are shareholders of amalgamated or resulting foreign company; or**

**(c) where change in shareholding takes place in a tax year consequent to a resolution plan approved under the Insolvency and Bankruptcy Code, 2016 and a reasonable opportunity of being heard was afforded to the jurisdictional Principal Commissioner or Commissioner; or**

**(d) to a company, its subsidiary and subsidiary of such subsidiary, if—**

**(i) the Board of Directors of such company were suspended by the Tribunal on an application moved by the Central Government under section 241 of the Companies Act, 2013 and new directors were appointed by the Central Government under section 242 of the said Act; and**

**(ii) the change in shareholding of such company and its subsidiary, and subsidiary of such subsidiary has taken place consequent to a resolution plan approved by the Tribunal under section 242 of the Companies Act, 2013 and a reasonable opportunity of being heard was afforded to the jurisdictional Principal Commissioner or Commissioner; or**

**(e) to a company to the extent that a change in the shareholding has taken place during the tax year on account of relocation referred to in section 70(2)(Table: Sl. No. 5.C); or**

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**(f) to an erstwhile public sector company where ultimate holding company of such company, immediately after the completion of strategic disinvestment, continues to hold, directly or through its subsidiary or subsidiaries, at least 51% of the voting power of such company in aggregate.**

**119(5): Applicability of Restriction After Non-Compliance with Strategic Disinvestment Condition**

Irrespective of anything contained in sub-section (4), if the conditions specified in sub-section 4(f) is not complied with in any tax year after the completion of strategic disinvestment, the provisions of sub-section (3) shall apply for such tax year and subsequent tax years.

**119(6): Definitions for the Purpose of Restriction on Carry Forward of Losses**

For the purposes of this section,—

**(a) a company shall be a subsidiary of another company, if such other company holds more than half in nominal value of the equity share capital of the company;**

**(b) the expression “erstwhile public sector company” shall have the meaning assigned to it in section 116(3)(b);**

**(c) “strategic disinvestment” shall have the meaning assigned to it in section 116(3)(c)(i);**

**(d) “Tribunal” shall have the same meaning as assigned to it in section 2(90) of the Companies Act, 2013.**

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## **120. NO SET OFF OF LOSSES AGAINST UNDISCLOSED INCOME CONSEQUENT TO SEARCH, REQUISITION AND SURVEY**

### **120(1): Disallowance of Set-Off of Losses Against Undisclosed Income from Search, Requisition, or Survey**

Irrespective of anything contained in any other provision of this Act, any loss, whether brought forward or otherwise or unabsorbed depreciation, shall not be allowed to be set off against any undisclosed income which is included in the total income of any tax year, consequent to a search conducted under section 247 or a requisition under section 248 or a survey conducted under section 253, not being a survey under section 253(4).

### **120(2): Definition of “Undisclosed Income”**

For the purposes of this section, the expression “undisclosed income” for any tax year shall have the meaning as referred to in section 301.

## **121. SUBMISSION OF RETURN FOR LOSSES.**

### **121: Submission of Return for Losses**

Irrespective of anything contained in this Chapter, no loss which has not been determined in pursuance of a return filed under section 263(1), shall be carried forward and set off under section 111(1) or 112(1) or 113(2) or 114(2) or 115(2).

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