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10. Incomes not included in total income

In computing the total income of a previous year of any person, any income falling within any of the following clauses shall not be included-

(1) agricultural income;

(2) subject to the provisions of sub-section (2) of section 64, any sum received by an individual as a member of a Hindu undivided family, where such sum has been paid out of the income of the family, or, in the case of any impartible estate, where such sum has been paid out of the income of the estate belonging to the family;

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(2A) in the case of a person being a partner of a firm which is separately assessed as such, his share in the total income of the firm.

Explanation: For the purposes of this clause, the share of a partner in the total income of a firm separately assessed as such shall, notwithstanding anything contained in any other law, be an amount which bears to the total income of the firm the same proportion as the amount of his share in the profits of the firm in accordance with the partnership deed bears to such profits;

(3) [Omitted];

(4) (i) in the case of a non-resident, any income by way of interest on such securities or bonds as the Central Government may, by notification in the Official Gazette, specify in this behalf, including income by way of premium on the redemption of such bonds :

Provided that the Central Government shall not specify, for the purposes of this sub-clause, such securities or bonds on or after the 1st day of June, 2002;

(ii) in the case of an individual, any income by way of interest on moneys standing to his credit in a Non-Resident (External) Account in any bank in India in accordance with the Foreign Exchange Management Act, 1999 (42 of 1999), and the rules made there under :

Provided that such individual is a person resident outside India as defined in clause (w) of section 2 of the said Act or is a person who has been permitted by the Reserve Bank of India to maintain the aforesaid Account:

[Second proviso omitted]

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(4B) in the case of an individual, being a citizen of India or a person of Indian origin, who is a non-resident, any income from interest on such savings certificates issued before the 1st day of June, 2002 by the Central Government as that Government may, by notification in the Official Gazette, specify in this behalf:

Provided that the individual has subscribed to such certificates in convertible foreign exchange remitted from a country outside India in accordance with the provisions of the Foreign Exchange Management Act, 1999 (42 of 1999), and any rules made there under.

Explanation: For the purposes of this clause, -

(a) a person shall be deemed to be of Indian origin if he, or either of his parents or any of his grand-parents, was born in undivided India;

(b) "convertible foreign exchange" means foreign exchange which is for the time being treated by the Reserve Bank of India as convertible foreign exchange for the purposes of the Foreign Exchange Management Act, 1999 (42 of 1999), and any rules made there under;

(4C) any income by way of interest payable to a non-resident, not being a company, or to a foreign company, by any Indian company or business trust in respect of monies borrowed from a source outside India by way of issue of rupee denominated bond, as referred to in clause (ia) of sub-section (2) of section 194LC, during the period beginning from the 17th day of September, 2018 and ending on the 31st day of March, 2019;

(4D) any income accrued or arisen to, or received by a specified fund as a result of transfer of capital asset referred to in clause (viiab) or section 47, on a recognised stock exchange located in

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any International Financial Services Centre and where the consideration for such transaction is paid or payable in convertible foreign exchange or as a result of transfer of securities (other than shares in a company resident in India) or any income from securities issued by a non-resident (not being a permanent establishment of a non-resident in India) and where such income otherwise does not accrue or arise in India or any income from a securitisation trust which is chargeable under the head "profits and gains of business or profession", to the extent such income accrued or arisen to, or is received, is attributable to units held by non-resident (not being the permanent establishment of a non-resident in India) or is attributable to the investment division of offshore banking unit, as the case may be, computed in the prescribed manner.

Explanation.-- For the purposes of this clause, the expression--

(a) "convertible foreign exchange" means foreign exchange which is for the time being treated by the Reserve Bank of India as convertible foreign exchange for the purposes of the Foreign Exchange Management Act, 1999 (42 of 1999) and the rules made there under;

(aa) "investment division of offshore banking unit" means an investment division of a banking unit of a non-resident located in an International Financial Services Centre, as referred to in sub-section (1A) of section 80LA and which has commenced its operations on or before the 31st day of March, 2030.

(b) "manager" shall have the meaning assigned to it in clause (q) of sub-regulation (1) of regulation 2 of the Securities and Exchange Board of India (Alternative Investment Fund) Regulations, 2012, made under the Securities and Exchange Board of India Act, 1992 (15 of 1992);

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(ba) "permanent establishment" shall have the same meaning assigned to it in clause (iiia) of section 92F;

(bb) "securities" shall have the same meaning as assigned to it in clause (h) of section 2 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956) and shall also include such other securities or instruments as may be notified by the Central Government in the Official Gazette in this behalf;

(bc) "securitisation trust" shall have the same meaning assigned to it in clause (d) of the Explanation to section 115TCA;

(c) "specified fund" means,--

(i) a fund established or incorporated in India in the form of a trust or a company or a limited liability partnership or a body corporate,--

(I) a which has been granted a certificate of registration as a Category III Alternative Investment Fund and is regulated under the Securities and Exchange Board of India (Alternative Investment Fund) Regulations, 2012, made under the Securities and Exchange Board of India Act, 1992 (15 of 1992) or regulated under the International Financial Services Centres Authority (Fund Management) Regulations, 2022 International Financial Services Centres Authority Act, 2019 (50 of 2019);

(b) which has been granted a certificate as a retail scheme or an Exchange Traded Fund and satisfies the conditions laid down for such schemes or funds under the International Financial Services Centres Authority (Fund Management) Regulations, 2022, made under the International Financial Services Centres Authority Act, 2019 (50 of 2019).

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(II) which is located in any International Financial Services Centre; and

(III) of which all the units other than unit held by a sponsor or manager are held by non-residents:

Provided that the condition specified in this item shall not apply where any unit holder or holders, being non-resident during the previous year when such unit or units were issued, becomes resident under clause (1) or clause (1A) of section 6 in any previous year subsequent to that year, if the aggregate value and number of the units held by such resident unit holder or holders do not exceed five per cent. of the total units issued and fulfil such other conditions as may be prescribed; or

(ii) investment division of an offshore banking unit, which has been--

(I) granted a certificate of registration as a Category-I foreign portfolio investor under the Securities and Exchange Board of India (Foreign Portfolio Investors) Regulations, 2019 made under the Securities and Exchange Board of India Act, 1992 (15 of 1992) and which has commenced its operations on or before the 31st day of March, 2030; and

(II) fulfils such conditions including maintenance of separate accounts for its investment division, as may be prescribed;

(d) "sponsor" shall have the meaning assigned to it in clause (w) of sub-regulation (1) of regulation 2 of the Securities and Exchange Board of India (Alternative Investment Fund) Regulations, 2012, made under the Securities and Exchange Board of India Act, 1992 (15 of 1992);

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(e) "trust" means a trust established under the Indian Trusts Act, 1882 (2 of 1882) or under any other law for the time being in force;

(f) "unit" means beneficial interest of an investor in the fund and shall include shares or partnership interest;

(4E) any income accrued or arisen to, or received by a non-resident as a result of--

(i) transfer of non-deliverable forward contracts or offshore derivative instruments or over-the-counter derivatives; or

(ii) distribution of income on offshore derivative instruments or over-the-counter derivatives, entered into with an offshore banking unit of an International Financial Services Centre referred to in subsection (1A) of section 80LA, or any Foreign Portfolio Investor being a unit of an International Financial Services Centre which fulfils such conditions as may be prescribed;

Explanation.--For the purposes of this clause, "Foreign Portfolio Investor" means a person registered under the Securities and Exchange Board of India (Foreign Portfolio Investors) Regulations, 2019 made under the Securities and Exchange Board of India Act, 1992 (15 of 1992);

(4F) any income of a non-resident by way of royalty or interest, on account of lease of an aircraft 369[or a ship] in a previous year, paid by a unit of an International Financial Services Centre as referred to in sub-section (1A) of section 80LA, if the unit has commenced its operations on or before the 31st day of March, 2030.

Explanation.- For the purposes of this clause,-

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(i) "aircraft" means an aircraft or a helicopter, or an engine of an aircraft or a helicopter, or any part thereof;

(ii) "ship" means a ship or an ocean vessel, engine of a ship or ocean vessel, or any part thereof;

(4G) any income received by a non-resident from,--

(i) portfolio of securities or financial products or funds, managed or administered by any portfolio manager on behalf of such non-resident; or

(ii) such activity carried out by such person, as may be notified by the Central Government in the Official Gazette, in an account maintained with an Offshore Banking Unit in any International Financial Services Centre, as referred to in sub-section (IA) of section 80LA, to the extent such income accrues or arises outside India and is not deemed to accrue or arise in India.

Explanation.--For the purposes of this clause, "portfolio manager" shall have the same meaning as assigned to it in clause (z) of sub-regulation (1) of regulation 2 of the International Financial Services Centres Authority (Capital Market Intermediaries) Regulations, 2021, made under the International Financial Services Centres Authority Act, 2019 (50 of 2019);

(4H) any income of a non-resident or a Unit of an International Financial Services Centre, as referred to in sub-section (1A) of section 80LA, engaged primarily in the business of leasing of an aircraft or a ship, by way of capital gains arising from the transfer of equity shares of domestic company, being a Unit of an International Financial Services Centre, as referred to in sub-section (1A) of section 80LA, engaged primarily in the business of lease of an aircraft or a ship which has commenced operations on or before the 31st day of March, 2030:

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Provided that the provisions of this clause shall apply for capital gains arising from the transfer of equity shares of such domestic company in a previous year relevant to an assessment year falling within the--

(a) period of ten assessment years beginning with the assessment year relevant to the previous year in which the domestic company has commenced operations; or

(b) period of ten assessment years beginning with the assessment year commencing on the 1st day of April, 2024, where the period referred to in clause (a) ends before the 1st day of April, 2034.

Explanation.-For the purposes of this clause,-

(a) "aircraft" means an aircraft or a helicopter, or an engine of an aircraft or a helicopter, or any part thereof; 50

(b) "ship" means a ship or an ocean vessel, engine of a ship or ocean vessel, or any part thereof;

(5) in the case of an individual, the value of any travel concession or assistance received by, or due to, him -

(a) from his employer for himself and his family, in connection with his proceeding on leave to any place in India;

(b) from his employer or former employer for himself and his family, in connection with his proceeding to any place in India after retirement from service or after the termination of his service, subject to such conditions as may be prescribed<sup>5</sup> (including conditions as to number of journeys and the amount which shall be exempt per head) having regard to the travel concession or assistance granted to the employees of the Central Government:

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Provided that the amount exempt under this clause shall in no case exceed the amount of expenses actually incurred for the purpose of such travel.

Provided further that for the assessment year beginning on the 1st day of April, 2021, the value in lieu of any travel concession or assistance received by, or due to, such individual shall also be exempt under this clause subject to the fulfilment of such conditions (including the condition of incurring such amount of such expenditure within such period), as may be prescribed.

Explanation 1: For the purposes of this clause, "family", in relation to an individual, means -

- (i) the spouse and children of the individual; and
- (ii) the parents, brothers and sisters of the individual or any of them, wholly or mainly dependent on the individual;

Explanation 2.--For the removal of doubts, it is hereby clarified that where an individual claims exemption and the exemption is allowed under the second proviso in connection with the prescribed expenditure, no exemption shall be allowed under this clause in respect of such prescribed expenditure to any other individual.

(5A) [Omitted];

(5B) [Omitted];

(6) in the case of an individual who is not a citizen of India, -

- (i) [Omitted];
- (ii) the remuneration received by him as an official, by whatever name called, of an embassy, high commission, legation, commission, consulate or the trade representation of a foreign

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State, or as a member of the staff of any of these officials, for service in such capacity :

Provided that the remuneration received by him as a trade Principal Commissioner or Commissioner or other official representative in India of the Government of a foreign State (not holding office as such in an honorary capacity), or as a member of the staff of any of those officials, shall be exempt only if the remuneration of the corresponding officials or, as the case may be, members of the staff, if any, of the Government resident for similar purposes in the country concerned enjoys a similar exemption in that country :

Provided further that such members of the staff are subjects of the country represented and are not engaged in any business or profession or employment in India otherwise than as members of such staff;

(iii) to (v) Stand omitted as a result of substitution for clauses (ii) to (v) by new clause (ii) by the Finance Act, 1988, with effect from 1st April 1989;

(vi) the remuneration received by him as an employee of a foreign enterprise for services rendered by him during his stay in India, provided the following conditions are fulfilled-

(a) the foreign enterprise is not engaged in any trade or business in India;

(b) his stay in India does not exceed in the aggregate a period of ninety days in such previous year; and

(c) such remuneration is not liable to be deducted from the income of the employer chargeable under this Act;

(via) [Omitted];

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(vii) [Omitted];

(viia) [Omitted];

(viii) any income chargeable under the head "Salaries" received by or due to any such individual being a non-resident as remuneration for services rendered in connection with his employment on a foreign ship where his total stay in India does not exceed in the aggregate a period of ninety days in the previous year;

(ix) [Omitted];

(x) [Omitted];

(xi) the remuneration received by him as an employee of the Government of a foreign State during his stay in India in connection with his training in any establishment or office of, or in any undertaking owned by, -

(i) the Government; or

(ii) any company in which the entire paid-up share capital is held by the Central Government, or any State Government or Governments, or partly by the Central Government and partly by one or more State Governments; or

(iii) any company which is a subsidiary of a company referred to in item (ii); or

(iv) any corporation established by or under a Central, State or Provincial Act; or

(v) any society registered under the Societies Registration Act, 1860 (14 of 1860), or under any other corresponding law for the time being in force and wholly financed by the Central Government, or any State Government or State Governments, or

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partly by the Central Government and partly by one or more State Governments;

(6A) where in the case of a foreign company deriving income by way of royalty or fees for technical services received from Government or an Indian concern in pursuance of an agreement made by the foreign company with Government or the Indian concern after the 31st day of March, 1976 but before the 1st day of June, 2002 and,-

(a) where the agreement relates to a matter included in the industrial policy, for the time being in force, of the Government of India, such agreement is in accordance with that policy; and

(b) in any other case, the agreement is approved by the Central Government, the tax on such income is payable, under the terms of the agreement, by Government or the Indian concern to the Central Government, the tax so paid.

Explanation : For the purposes of this clause and clause (6B),-

(a) "fees for technical services" shall have the same meaning as in Explanation 2 to clause (vii) of sub-section (1) of section 9;

(b) "foreign company" shall have the same meaning as in section 80B;

(c) "royalty" shall have the same meaning as in Explanation 2 to clause (vi) of sub-section (1) of section 9;

(6B) where in the case of a non-resident (not being a company) or of a foreign company deriving income (not being salary, royalty or fees for technical services) from Government or an Indian concern in pursuance of an agreement entered into before the 1st day of June, 2002 by the Central Government] with the Government of a foreign State or an international organisation,

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the tax on such income is payable by Government or the Indian concern to the Central Government under the terms of that agreement or any other related agreement approved before that date by the Central Government, the tax so paid;

(6BB) where in the case of the Government of a foreign State or a foreign enterprise deriving income from an Indian company engaged in the business of operation of aircraft, as a consideration of acquiring an aircraft or an aircraft engine (other than payment for providing spares, facilities or services in connection with the operation of leased aircraft) on lease under 16[an agreement entered into after the 31st day of March, 1997 but before the 1st day of April, 1999, 18 or entered into after the 31st day of March, 2007 and approved by the Central Government in this behalf and the tax on such income is payable by such Indian company under the terms of that agreement to the Central Government, the tax so paid.

Explanation: For the purposes of this clause, the expression "foreign enterprise" means a person who is a non-resident;

(6C) any income arising to such foreign company, as the Central Government may, by notification<sup>19</sup> in the Official Gazette, specify in this behalf, <sup>20</sup>[by way of royalty or fees] for technical services received in pursuance of an agreement entered into with that Government for providing services in or outside India in projects connected with security of India;

(6D) any income arising to a non-resident, not being a company, or a foreign company, by way of royalty from, or fees for technical services rendered in or outside India to, the National Technical Research Organisation;

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(7) any allowances or perquisites paid or allowed as such outside India by the Government to a citizen of India for rendering service outside India;

(8) in the case of an individual who is assigned to duties in India in connection with any co-operative technical assistance programmes and projects in accordance with an agreement entered into by the Central Government and the Government of a foreign State (the terms whereof provide for the exemption given by this clause)-

(a) the remuneration received by him directly or indirectly from the Government of that foreign State for such duties, and

(b) any other income of such individual which accrues or arises outside India, and is not deemed to accrue or arise in India, in respect of which such individual is required to pay any income or social security tax to the Government of that foreign State;

Provided that nothing contained in this clause shall apply to such remuneration and income of the previous year relevant to the assessment year beginning on or after the 1st day of April, 2023;

(8A) in the case of a consultant -

(a) any remuneration or fee received by him or it, directly or indirectly, out of the funds made available to an international organisation hereafter referred to in this clause and clause (8B) as the agency] under a technical assistance grant agreement between the agency and the Government of a foreign State; and

(b) any other income which accrues or arises to him or it outside India, and is not deemed to accrue or arise in India, in respect of which such consultant is required to pay any income or social security tax to the Government of the country of his or its origin.

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Provided that nothing contained in this clause shall apply to such remuneration, fee and income of the previous year relevant to the assessment year beginning on or after the 1st day of April, 2023.

Explanation: In this clause, "consultant" means-

(i) any individual, who is either not a citizen of India or, being a citizen of India, is not ordinarily resident in India; or

(ii) any other person, being a non-resident, engaged by the agency for rendering technical services in India in connection with any technical assistance programme or project, provided the following conditions are fulfilled, namely :

(1) the technical assistance is in accordance with an agreement entered into by the Central Government and the agency; and

(2) the agreement relating to the engagement of the consultant is approved by the prescribed authority for the purposes of this clause;

(8B) in the case of an individual who is assigned to duties in India in connection with any technical assistance programme and project in accordance with an agreement entered into by the Central Government and the agency-

(a) the remuneration received by him, directly or indirectly, for such duties from any consultant referred to in clause (8A); and

(b) any other income of such individual which accrues or arises outside India, and is not deemed to accrue or arise in India, in respect of which such individual is required to pay any income or social security tax to the country of his origin, provided the following conditions are fulfilled, namely:

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Provided that nothing contained in this clause shall apply to such remuneration and income of the previous year relevant to the assessment year beginning on or after the 1st day of April, 2023;

(i) the individual is an employee of the consultant referred to in clause (8A) and is either not a citizen of India or, being a citizen of India, is not ordinarily resident in India; and

(ii) the contract of service of such individual is approved by the prescribed authority before the commencement of his service;

(9) the income of any member of the family of any such individual as is referred to in clause (8) or clause (8A) or, as the case may be, clause (8B) accompanying him to India, which accrues or arises outside India, and is not deemed to accrue or arise in India, in respect of which such member is required to pay any income or social security tax to the Government of that foreign State or, as the case may be, country of origin of such member;

Provided that nothing contained in this clause shall apply to such income of the previous year relevant to the assessment year beginning on or after the 1st day of April, 2023;

(10) (i) any death-cum-retirement gratuity received under the revised Pension Rules of the Central Government or, as the case may be, the Central Civil Services (Pension) Rules, 1972, or under any similar scheme applicable to the members of the civil services of the Union or holders of posts connected with defence or of civil posts under the Union (such members or holders being persons not governed by the said Rules) or to the members of the all-India services or to the members of the civil services of a State or holders of civil posts under a State or to the employees of a local authority or any payment of retiring gratuity received

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under the Pension Code or Regulations applicable to the members of the defence services;

(ii) any gratuity received under the Payment of Gratuity Act, 1972 (39 of 1972), to the extent it does not exceed an amount calculated in accordance with the provisions of sub-sections (2) and (3) of section 4 of that Act;

(iii) any other gratuity received by an employee on his retirement or on his becoming incapacitated prior to such retirement or on termination of his employment, or any gratuity received by his widow, children or dependents on his death, to the extent it does not, in either case, exceed one-half month's salary for each year of completed service, calculated on the basis of the average salary for the ten months immediately preceding the month in which any such event occurs, subject to such limit as the Central Government may, by notification in the Official Gazette, specify in this behalf having regard to the limit applicable in this behalf to the employees of that Government:

Provided that where any gratuities referred to in this clause are received by an employee from more than one employer in the same previous year, the aggregate amount exempt from income-tax under this clause shall not exceed the limit so specified:

Provided further that where any such gratuity or gratuities was or were received in any one or more earlier previous years also and the whole or any part of the amount of such gratuity or gratuities was not included in the total income of the assessee of such previous year or years, the amount exempt from income-tax under this clause shall not exceed the limit so specified] as reduced by the amount or, as the case may be, the aggregate amount not included in the total income of any such previous year or years.

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Explanation: In this clause, and in clause (10AA), "salary" shall have the meaning assigned to it in clause (h) of rule 2 of Part A of the Fourth Schedule;

(10A) (i) any payment in commutation of pension received under the Civil Pensions (Commutation) Rules of the Central Government or under any similar scheme applicable to the members of the civil services of the Union or holders of posts connected with defence or of civil posts under the Union (such members or holders being persons not governed by the said Rules) or to the members of the all-India services or to the members of the defence services or to the members of the civil services of a State or holders of civil posts under a State or to the employees of a local authority or a corporation established by a Central, State or Provincial Act;

(ii) any payment in commutation of pension received under any scheme of any other employer, to the extent it does not exceed -

(a) in a case where the employee receives any gratuity, the commuted value of one-third of the pension which he is normally entitled to receive, and

(b) in any other case, the commuted value of one-half of such pension, such commuted value being determined having regard to the age of the recipient, the state of his health, the rate of interest and officially recognised tables of mortality;

(iii) any payment in commutation of pension received from a fund under clause (23AAB);

(10AA) (i) any payment received by an employee of the Central Government or a State Government as the cash equivalent of the leave salary in respect of the period of earned leave at his credit

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at the time of his retirement whether on superannuation or otherwise;

(ii) any payment of the nature referred to in sub-clause (i) received by an employee, other than an employee of the Central Government or a State Government, in respect of so much of the period of earned leave at his credit at the time of his retirement whether on superannuation or otherwise as does not exceed ten months, calculated on the basis of the average salary drawn by the employee during the period of ten months immediately preceding his retirement whether on superannuation or otherwise, subject to such limit as the Central Government may, by notification in the Official Gazette, specify in this behalf having regard to the limit applicable in this behalf to the employees of that Government:

Provided that where any such payments are received by an employee from more than one employer in the same previous year, the aggregate amount exempt from income-tax under this sub-clause shall not exceed the limit so specified:

Provided further that where any such payment or payments was or were received in any one or more earlier previous years also and the whole or any part of the amount of such payment or payments was or were not included in the total income of the assessee of such previous year or years, the amount exempt from income-tax under this sub-clause shall not exceed the limit so specified, as reduced by the amount or, as the case may be, the aggregate amount not included in the total income of any such previous year or years.

Explanation: For the purposes of sub-clause (ii), the entitlement to earned leave of an employee shall not exceed thirty days for

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every year of actual service rendered by him as an employee of the employer from whose service he has retired;

(10B) any compensation received by a workman under the Industrial Disputes Act, 1947 (14 of 1947), or under any other Act or Rules, orders or notifications issued there under or under any standing orders or under any award, contract of service or otherwise, at the time of his retrenchment:

Provided that the amount exempt under this clause shall not exceed -

(i) an amount calculated in accordance with the provisions of clause (b) of section 25F of the Industrial Disputes Act, 1947 (14 of 1947); or

(ii) such amount, not being less than fifty thousand rupees, as the Central Government may, by notification in the Official Gazette, specify in this behalf, whichever is less :

(i) an amount calculated in accordance with the provisions of clause (b) of section 25F of the Industrial Disputes Act, 1947 (14 of 1947); or

(ii) twenty thousand rupees, whichever is less" (w.e.f.1-4-1986).

Provided further that the preceding proviso shall not apply in respect of any compensation received by a workman in accordance with any scheme which the Central Government may, having regard to the need for extending special protection to the workmen in the undertaking to which such scheme applies and other relevant circumstances, approve in this behalf.

Explanation: For the purposes of this clause -

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(a) compensation received by a workman at the time of the closing down of the undertaking in which he is employed shall be deemed to be compensation received at the time of his retrenchment;

(b) compensation received by a workman, at the time of the transfer (whether by agreement or by operation of law) of the ownership or management of the undertaking in which he is employed from the employer in relation to that undertaking to a new employer, shall be deemed to be compensation received at the time of his retrenchment if-

(i) the service of the workman has been interrupted by such transfer; or

(ii) the terms and conditions of service applicable to the workman after such transfer are in any way less favourable to the workman than those applicable to him immediately before the transfer; or

(iii) the new employer is, under the terms of such transfer or otherwise, legally not liable to pay to the workman, in the event of his retrenchment, compensation on the basis that his service has been continuous and has not been interrupted by the transfer;

(c) the expressions "employer" and "workman" shall have the same meanings as in the Industrial Disputes Act, 1947 (14 of 1947);

(10BB) any payments made under the Bhopal Gas Leak Disaster (Processing of Claims) Act, 1985 (21 of 1985), and any scheme framed there under except payment made to any assessee in connection with the Bhopal gas leak disaster to the extent such assessee has been allowed a deduction under this Act on account of any loss or damage caused to him by such disaster;

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(10BC) any amount received or receivable from the Central Government or a State Government or a local authority by an individual or his legal heir by way of compensation on account of any disaster, except the amount received or receivable to the extent such individual or his legal heir has been allowed a deduction under this Act on account of any loss or damage caused by such disaster.

Explanation: For the purposes of this clause, the expression "disaster" shall have the meaning assigned to it under clause (d) of section 2 of the Disaster Management Act, 2005 (53 of 2005);

(10C) any amount received or receivable by an employee of -

(i) a public sector company; or

(ii) any other company; or

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

(iv) a local authority; or

(v) a co-operative society; or

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

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

(viia) any State Government; or

(viib) the Central Government; or

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(viic) an institution, having importance throughout India or in any State or States, as the Central Government may, by notification in the Official Gazette, specify in this behalf; or

(viii) such institute of management as the Central Government may, by notification in the Official Gazette, specify in this behalf, on his voluntary retirement or termination of his service, in accordance with any scheme or schemes of voluntary retirement or in the case of a public sector company referred to in sub-clause (i), a scheme of voluntary separation, to the extent such amount does not exceed five lakh rupees:

Provided that the schemes of the said companies or authorities or societies or Universities or the Institutes referred to in sub-clauses (vii) and (viii), as the case may be, governing the payment of such amount are framed in accordance with such guidelines (including inter alia criteria of economic viability) as may be prescribed:

Provided further that where exemption has been allowed to an employee under this clause for any assessment year, no exemption there under shall be allowed to him in relation to any other assessment year;

Provided also that where any relief has been allowed to an assessee under section 89 for any assessment year in respect of any amount received or receivable on his voluntary retirement or termination of service or voluntary separation, no exemption under this clause shall be allowed to him in relation to such, or any other, assessment year.

(10CC) in the case of an employee, being an individual deriving income in the nature of a perquisite, not provided for by way of monetary payment within the meaning of clause (2) of section

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17, the tax on such income actually paid by his employer, at the option of the employer, on behalf of such employee, notwithstanding anything contained in section 200 of the Companies Act, 1956 (1 of 1956);

(10D) any sum received under a life insurance policy, including the sum allocated by way of bonus on such policy, other than -

(a) any sum received under sub-section (3) of section 80DD or subsection (3) of section 80DDA; or

(b) any sum received under a Keyman insurance policy; or

(c) any sum received under an insurance policy issued on or after the 1st day of April, 2003 but on or before the 31st day of March, 2012 in respect of which the premium payable for any of the years during the term of the policy exceeds twenty per cent of the actual capital sum assured; or

(d) any sum received under an insurance policy issued on or after the 1st day of April, 2012 in respect of which the premium payable for any of the years during the term of the policy exceeds ten per cent. of the actual capital sum assured:

Provided that the provisions of sub-clauses (c) and (d) shall not apply to any sum received on the death of a person:

Provided further that for the purpose of calculating the actual capital sum assured under sub-clause (c), effect shall be given to the Explanation to sub-section (3) of section 80C.

Provided also that where the policy, issued on or after the 1st day of April, 2013, is for insurance on life of any person, who is--

(i) a person with disability or a person with severe disability as referred to in section 80U; or

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(ii) suffering from disease or ailment as specified in the rules made under section 80DDB, the provisions of this sub-clause shall have effect as if for the words "ten per cent.", the words "fifteen per cent." had been substituted.

Provided also that nothing contained in this clause shall apply with respect to any unit linked insurance policy, issued on or after the 1st day of February, 2021, if the amount of premium payable for any of the previous year during the term of such policy exceeds two lakh and fifty thousand rupees:

Provided also that if the premium is payable, by a person, for more than one unit linked insurance policies, issued on or after the 1st day of February, 2021, the provisions of this clause shall apply only with respect to those unit linked insurance policies, where the aggregate amount of premium does not exceed the amount referred to in fourth proviso in any of the previous year during the term of any of those policies:

Provided also that nothing contained in this clause shall apply with respect to any life insurance policy other than a unit linked insurance policy, issued on or after the 1st day of April, 2023, if the amount of premium payable for any of the previous years during the term of such policy exceeds five lakh rupees:

Provided also that if the premium is payable by a person for more than one life insurance policy other than unit linked insurance policy, issued on or after the 1st day of April, 2023, the provisions of this clause shall apply only with respect to those life insurance policies other than unit linked insurance policies, where the aggregate amount of premium does not exceed the amount referred to in the sixth proviso in any of the previous years during the term of any of those policies:

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Provided also that the provisions of the fourth, fifth, sixth and seventh provisos shall not apply to any sum received--

(a) on the death of a person; or

(b) under a life insurance policy issued by the International Financial Services Centre insurance office, including the sum allocated by way of bonus on such policy.

Explanation.--For the purposes of this proviso, "International Financial Services Centre insurance office" shall have the same meaning as assigned to it in clause (k) of sub-regulation (1) of regulation 3 of the International Financial Services Centres Authority (Insurance Intermediary) Regulations, 2021, made under the International Financial Services Centres Authority Act, 2019 (50 of 2019):

Provided also that if any difficulty arises in giving effect to the provisions of this clause, the Board may, with the previous approval of the Central Government, issue guidelines for the purpose of removing the difficulty and every guideline issued by the Board under this proviso shall be laid before each House of Parliament, and shall be binding on the income-tax authorities and the assessee.

Explanation 1.-- For the purposes of this clause, "Keyman insurance policy" means a life insurance policy taken by a person on the life of another person who is or was the employee of the first-mentioned person or is or was connected in any manner whatsoever with the business of the first-mentioned person; 184[and includes such policy which has been assigned to a person, at any time during the term of the policy, with or without any consideration

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Explanation 2.--For the purposes of sub-clause (d), the expression "actual capital sum assured" shall have the meaning assigned to it in the Explanation to sub-section (3A) of section 80C;

Explanation 3.--For the purposes of this clause, "unit linked insurance policy" means a life insurance policy which has components of both investment and insurance and is linked to a unit as defined in clause (ee) of regulation 3 of the Insurance Regulatory and Development Authority of India (Unit Linked Insurance Products) Regulations, 2019 issued by the Insurance Regulatory and Development Authority under the Insurance Act, 1938 (4 of 1938) and the Insurance Regulatory and Development Authority Act, 1999 (41 of 1999);

(11) any payment from a provident fund to which the Provident Fund Act, 1925 (19 of 1925), applies or from any other provident fund set-up by the Central Government and notified by it in this behalf in the Official Gazette;

Provided that the provisions of this clause shall not apply to the income by way of interest accrued during the previous year in the account of a person to the extent it relates to the amount or the aggregate of amounts of contribution made by that person exceeding two lakh and fifty thousand rupees in any previous year in that fund, on or after the 1st day of April, 2021 and computed in such manner as may be prescribed:

Provided further that if the contribution by such person is in a fund in which there is no contribution by the employer of such person, the provisions of the first proviso shall have the effect as if for the words "two lakh and fifty thousand rupees", the words "five lakh rupees" had been substituted;

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(11A) any payment from an account, opened in accordance with the Sukanya Samriddhi Account Rules, 2014 made under the Government Savings Bank Act, 1873 (5 of 1873);

(12) the accumulated balance due and becoming payable to an employee participating in a recognised provident fund, to the extent provided in rule 8 of Part A of the Fourth Schedule;

Provided that the provisions of this clause shall not apply to the income by way of interest accrued during the previous year in the account of a person to the extent it relates to the amount or the aggregate of amounts of contribution made by that person exceeding two lakh and fifty thousand rupees in any previous year in that fund, on or after the 1st day of April, 2021 and computed in such manner as may be prescribed:

Provided further that if the contribution by such person is in a fund in which there is no contribution by the employer of such person, the provisions of the first proviso shall have the effect as if for the words "two lakh and fifty thousand rupees", the words "five lakh rupees" had been substituted;

(12A) any payment from the National Pension System Trust to an assessee on closure of his account or on his opting out of the pension scheme referred to in section 80CCD, to the extent it does not exceed sixty per cent. of the total amount payable to him at the time of such closure or his opting out of the scheme;

(12B) any payment from the National Pension System Trust to an employee under the pension scheme referred to in section 80CCD, on partial withdrawal made out of his account in accordance with the terms and conditions, specified under the Pension Fund Regulatory and Development Authority Act, 2013 (23 of 2013) and the regulations made thereunder, to the extent it

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does not exceed twenty-five per cent. of the amount of contributions made by him;

(12BA) any payment from the National Pension System Trust to an assessee, being the parent or guardian of a minor, under the pension scheme referred to in section 80CCD, on partial withdrawal made out of the account of the minor, as per the terms and conditions, specified under the Pension Fund Regulatory and Development Authority Act, 2013 (23 of 2013) and the regulations made thereunder, to the extent it does not exceed twenty-five per cent. of the amount of contributions made by him;

(12C) any payment from the Agniveer Corpus Fund to a person enrolled under the Agnipath Scheme, or to his nominee.

Explanation.--For the purposes of this clause "Agniveer Corpus Fund" and "Agnipath Scheme" shall have the meanings respectively assigned to them in section 80CCH;

(13) any payment from an approved superannuation fund made -

(i) on the death of a beneficiary; or

(ii) to an employee in lieu of or in commutation of an annuity on his retirement at or after a specified age or on his becoming incapacitated prior to such retirement; or

(iii) by way of refund of contributions on the death of a beneficiary; or

(iv) by way of refund of contributions to an employee on his leaving the service in connection with which the fund is established otherwise than by retirement at or after a specified age or on his becoming incapacitated prior to such retirement, to the extent to which such payment does not exceed the

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contributions made prior to the commencement of this Act and any interest thereon; or

(v) by way of transfer to the account of the employee under a pension scheme referred to in section 80CCD and notified by the Central Government;

(13A) any special allowance specifically granted to an assessee by his employer to meet expenditure actually incurred on payment of rent (by whatever name called) in respect of residential accommodation occupied by the assessee, to such extent as may be prescribed<sup>34</sup> having regard to the area or place in which such accommodation is situate and other relevant considerations.

Explanation: For the removal of doubts, it is hereby declared that nothing contained in this clause shall apply in a case where -

(a) the residential accommodation occupied by the assessee is owned by him ; or

(b) the assessee has not actually incurred expenditure on payment of rent (by whatever name called) in respect of the residential accommodation occupied by him;

(14) (i) any such special allowance or benefit, not being in the nature of a perquisite within the meaning of clause (2) of section 17, specifically granted to meet expenses wholly, necessarily and exclusively incurred in the performance of the duties of an office or employment of profit, as may be prescribed, to the extent to which such expenses are actually incurred for that purpose;

(ii) any such allowance granted to the assessee either to meet his personal expenses at the place where the duties of his office or employment of profit are ordinarily performed by him or at the

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place where he ordinarily resides, or to compensate him for the increased cost of living, as may be prescribed and to the extent as may be prescribed:

Provided that nothing in sub-clause (ii) shall apply to any allowance in the nature of personal allowance granted to the assessee to remunerate or compensate him for performing duties of a special nature relating to his office or employment unless such allowance is related to the place of his posting or residence;

(14A) [Omitted];

(15) (i) income by way of interest, premium on redemption or other payment on such securities, bonds, annuity certificates, savings certificates, other certificates issued by the Central Government and deposits as the Central Government may, by notification in the Official Gazette, specify in this behalf, subject to such conditions and limits as may be specified in the said notification;

[(ia), (ib), (ii) and (iia) omitted];

(iib) in the case of an individual or a Hindu undivided family, interest on such Capital Investment Bonds as the Central Government may, by notification in the Official Gazette, specify in this behalf:

Provided that the Central Government shall not specify, for the purposes of this sub-clause, such Capital Investment Bonds on or after the 1st day of June, 2002;

(iic) in the case of an individual or a Hindu undivided family, interest on such Relief Bonds as the Central Government may, by notification in the Official Gazette, specify in this behalf;

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(iid) interest on such bonds, as the Central Government may, by notification in the Official Gazette, specify, arising to -

(a) a non-resident Indian, being an individual owning the bonds;  
or

(b) any individual owning the bonds by virtue of being a nominee or survivor of the non-resident Indian; or

(c) any individual to whom the bonds have been gifted by the nonresident Indian :

Provided that the aforesaid bonds are purchased by a non-resident Indian in foreign exchange and the interest and principal received in respect of such bonds, whether on their maturity or otherwise, is not allowable to be taken out of India:

Provided further that where an individual, who is a non-resident Indian in any previous year in which the bonds are acquired, becomes a resident in India in any subsequent year, the provisions of this sub-clause shall continue to apply in relation to such individual :

Provided also that in a case where the bonds are encashed in a previous year prior to their maturity by an individual who is so entitled, the provisions of this sub-clause shall not apply to such individual in relation to the assessment year relevant to such previous year.

Provided also that the Central Government shall not specify, for the purposes of this sub-clause, such bonds on or after the 1st day of June, 2002:

Explanation: For the purposes of this sub-clause, the expression "nonresident Indian" shall have the meaning assigned to it in clause (e) of section 115C;

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(iii) interest on securities held by the Issue Department of the Central Bank of Ceylon constituted under the Ceylon Monetary Law Act, 1949;

(iiia) interest payable to any bank incorporated in a country outside India and authorised to perform central banking functions in that country on any deposits made by it, with the approval of the Reserve Bank of India, with any scheduled bank.

Explanation: For the purposes of this sub-clause, "scheduled bank" shall have the meaning assigned to it in clause (ii) of the Explanation to clause (viiia) of sub-section (1) of section 36;

(iiib) interest payable to the Nordic Investment Bank, being a multilateral financial institution constituted by the Governments of Denmark, Finland, Iceland, Norway and Sweden, on a loan advanced by it to a project approved by the Central Government in terms of the Memorandum of Understanding entered into by the Central Government with that Bank on the 25th day of November, 1986;

(iiic) interest payable to the European Investment Bank, on a loan granted by it in pursuance of the framework-agreement for financial co-operation entered into on the 25th day of November, 1993 by the Central Government with that Bank;

(iv) interest payable -

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

(b) by an industrial undertaking in India on moneys borrowed by it under a loan agreement entered into before the 1st day of June, 2001 with any such financial institution in a foreign country as

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may be approved in this behalf by the Central Government by general or special order;

(c) by an industrial undertaking in India on any moneys borrowed or debt incurred by it before the 1st day of June, 2001 in a foreign country in respect of the purchase outside India of raw materials or components or capital plant and machinery, to the extent to which such interest does not exceed the amount of interest calculated at the rate approved by the Central Government in this behalf, having regard to the terms of the loan or debt and its repayment.

Explanation 1: For the purposes of this item, "purchase of capital plant and machinery" includes the purchase of such capital plant and machinery under a hire-purchase agreement or a lease agreement with an option to purchase such plant and machinery;

Explanation 2: For the removal of doubts, it is hereby declared that the usance interest payable outside India by an undertaking engaged in the business of ship-breaking in respect of purchase of a ship from outside India shall be deemed to be the interest payable on a debt incurred in a foreign country in respect of the purchase outside India;

(d) by the Industrial Finance Corporation of India established by the Industrial Finance Corporation Act, 1948 (15 of 1948), or the Industrial Development Bank of India established under the Industrial Development Bank of India Act, 1964 (18 of 1964), or the Export-Import Bank of India established under the Export-Import Bank of India Act, 1981 (28 of 1981), or the National Housing Bank established under section 3 of the National Housing Bank Act, 1987 (53 of 1987), or the Small Industries Development Bank of India established under section 3 of the Small Industries Development Bank of India Act, 1989 (39 of

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1989), or the Industrial Credit and Investment Corporation of India (a company formed and registered under the Indian Companies Act, 1913 (7 of 1913)), on any moneys borrowed by it from sources outside India before the 1st day of June, 2001, to the extent to which such interest does not exceed the amount of interest calculated at the rate approved by the Central Government in this behalf, having regard to the terms of the loan and its repayment;

(e) by any other financial institution established in India or a banking company to which the Banking Regulation Act, 1949 (10 of 1949), applies (including any bank or banking institution referred to in section 51 of that Act), on any moneys borrowed by it from sources outside India before the 1st day of June, 2001 under a loan agreement approved by the Central Government where the moneys are borrowed either for the purpose of advancing loans to industrial undertakings in India for purchase outside India of raw materials or capital plant and machinery or for the purpose of importing any goods which the Central Government may consider necessary to import in the public interest, to the extent to which such interest does not exceed the amount of interest calculated at the rate approved by the Central Government in this behalf, having regard to the terms of the loan and its repayment;

(f) by an industrial undertaking in India on any moneys borrowed by it in foreign currency from sources outside India under a loan agreement approved by the Central Government before the 1st day of June, 2001 having regard to the need for industrial development in India, to the extent to which such interest does not exceed the amount of interest calculated at the rate approved

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by the Central Government in this behalf, having regard to the terms of the loan and its repayment;

Explanation.- For the purpose of this item, the expression "foreign currency" shall have the meaning assigned to it in 46c[the Foreign Exchange Management Act, 1999 (42 of 1999);

(fa) by a scheduled bank to a non-resident or to a person who is not ordinarily resident within the meaning of subsection (6) of section 6, on deposits in foreign currency where the acceptance of such deposits by the bank is approved by the Reserve Bank of India.

Explanation: For the purposes of this item, the expression "scheduled bank" means the State Bank of India constituted under the State Bank of India Act, 1955 (23 of 1955), a subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959 (38 of 1959), a corresponding new bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (5 of 1970), or under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980 (40 of 1980), or any other bank being a bank included in the Second Schedule to the Reserve Bank of India Act, 1934 (2 of 1934), but does not include a co-operative bank;

(g) by a public company formed and registered in India with the main object of carrying on the business of providing long-term finance for construction or purchase of houses in India for residential purposes, being a company eligible for deduction under clause (viii) of sub-section (1) of section 36 on any moneys borrowed by it in foreign currency from sources outside India under a loan agreement approved by the Central Government before the 1st day of June, 2003, to the extent to which such

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interest does not exceed the amount of interest calculated at the rate approved by the Central Government in this behalf, having regard to the terms of the loan and its repayment.

Explanation: For the purposes of items (f), (fa) and (g), the expression "foreign currency" shall have the meaning assigned to it in the Foreign Exchange Management Act, 1999 (42 of 1999);

(h) by any public sector Company in respect of such bonds or debentures and subject to such conditions, including the condition that the holder of such bonds or debentures registers his name and the holding with that company, as the Central Government may, by notification in the official gazette, specify in this behalf;

(i) by Government on deposits made by an employee of the Central Government or a State Government or 51d[a public sector company, in accordance with such scheme as the Central Government may, by notification in the Official Gazette, frame in this behalf, out of the moneys due to him on account of his retirement, whether on superannuation or otherwise.

Explanation 1: For the purposes of this sub-clause, the expression "industrial undertaking" means any undertaking which is engaged in -

(a) the manufacture or processing of goods; or

(aa) the manufacture of computer software or recording of programme on any disc, tape, perforated media or other information device; or

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

(ba) the business of providing telecommunication services; or

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(c) mining; or

(d) the construction of ships; or

(da) the business of ship-breaking; or

(e) the operation of ships or aircrafts or construction or operation of rail systems;

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

Explanation 2: For the purposes of this clause, the expression "interest" includes hedging transaction charges on account of currency fluctuation;

(v) interest on -

(a) securities held by the Welfare Commissioner, Bhopal Gas Victims, Bhopal, in the Reserve Bank's SGL Account No. SL/DH 048;

(b) deposits for the benefit of the victims of the Bhopal gas leak disaster held in such account, with the Reserve Bank of India or with a public sector bank, as the Central Government may, by notification in the Official Gazette, specify, whether prospectively or retrospectively but in no case earlier than the 1st day of April, 1994 in this behalf.

Explanation: For the purposes of this sub-clause, the expression "public sector bank" shall have the meaning assigned to it in the Explanation to clause (23D);

(vi) interest on Gold Deposit Bonds issued under the Gold Deposit Scheme, 1999<sup>59</sup> or deposit certificates issued under the

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Gold Monetisation Scheme, 2015 notified by the Central Government;

(vii) interest on bonds--

(a) issued by a local authority or by a State Pooled Finance Entity; and

(b) specified by the Central Government by notification in the Official Gazette.

Explanation: For the purposes of this sub-clause, the expression "State Pooled Finance Entity" shall mean such entity which is set up in accordance with the guidelines for the Pooled Finance Development Scheme notified by the Central Government in the Ministry of Urban Development;

(viii) any income by way of interest received by a non-resident or a person who is not ordinarily resident, in India on a deposit made on or after the 1st day of April, 2005, in an Offshore Banking Unit referred to in clause (u) of section 2 of the Special Economic Zones Act, 2005.

(ix) any income by way of interest payable to a non-resident by a unit located in an International Financial Services Centre in respect of monies borrowed by it on or after the 1st day of September, 2019.

Explanation.-- For the purposes of this sub-clause,--

(a) "International Financial Services Centre" shall have the meaning assigned to it in clause (q) of section 2 of the Special Economic Zones Act, 2005 (28 of 2005);

(b) "unit" shall have the meaning assigned to it in clause (zc) of section 2 of the Special Economic Zones Act, 2005 (28 of 2005);

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(15A) any payment made, by an Indian company engaged in the business of operation of aircraft, to acquire an aircraft or an aircraft engine (other than a payment for providing spares, facilities or services in connection with the operation of leased aircraft) on lease from the Government of a foreign State or a foreign enterprise under an agreement not being an agreement entered into between the 1st day of April, 1997 and the 31st day of March, 1999, and approved by the Central Government in this behalf.

Provided that nothing contained in this clause shall apply to any such agreement entered into on or after the 1st day of April, 2007.

Explanation: For the purposes of this clause, the expression "foreign enterprise" means a person who is a non-resident;

(15B) any income of a foreign company from lease rentals, by whatever name called, of cruise ships, received from a specified company which operates such ship or ships in India, where such foreign company and the specified company are subsidiaries of the same holding company, and such income is received or accrues or arises in India for any relevant assessment year beginning on or before the 1st day of April, 2030.

Explanation.--For the purposes of this clause,--

(a) "specified company" means any company, other than a domestic company which operates cruise ships in India and opts to pay tax in accordance with the provisions of section 44BBC;

(b) "holding company", in relation to a foreign company or a specified company, means a company of which such companies are subsidiary companies;

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(c) "subsidiary company" or "subsidiary", in relation to a holding company, means a company in which the holding company exercises or controls more than one-half of the total share capital either at its own or together with one or more of its subsidiary companies.

(16) scholarships granted to meet the cost of education;

(17) any income by way of -

(i) daily allowance received by any person by reason of his membership of Parliament or of any State Legislature or of any Committee thereof;

(ii) any allowance received by any person by reason of his membership of Parliament under the Members of Parliament (Constituency Allowance) Rules, 1986;

(iii) any constituency allowance received by any person by reason of his membership of any State Legislature under any Act or Rules made by that State Legislature;

(17A) any payment made, whether in cash or in kind, -

(i) in pursuance of any award instituted in the public interest by the Central Government or any State Government or instituted by any other body and approved by the Central Government in this behalf; or

(ii) as a reward by the Central Government or any State Government for such purposes as may be approved by the Central Government in this behalf in the public interest;

(18) any income by way of -

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(i) pension received by an individual who has been in the service of the Central or State Government and has been awarded "Param Vir Chakra" or "Maha Vir Chakra" or "Vir Chakra" or such other gallantry award as the Central Government may, by notification in the Official Gazette, specify in this behalf;

(ii) family pension received by any member of the family of an individual referred to in sub-clause (i).

Explanation : For the purposes of this clause, the expression "family" shall have the meaning assigned to it in the Explanation to clause (5).

(18A) [Omitted];

(19) family pension received by the widow or children or nominated heirs, as the case may be, of a member of the armed forces (including paramilitary forces) of the Union, where the death of such member has occurred in the course of operational duties, in such circumstances and subject to such conditions, as may be prescribed;

(19A) the annual value of any one palace in the occupation of a Ruler, being a palace, the annual value whereof was exempt from income-tax before the commencement of the Constitution (Twenty-sixth Amendment) Act, 1971, by virtue of the provisions of the Merged States (Taxation Concessions) Order, 1949, or the Part B States (Taxation Concessions) Order, 1950, or, as the case may be, the Jammu and Kashmir (Taxation Concessions) Order, 1958:

Provided that for the assessment year commencing on the 1st day of April, 1972, the annual value of every such palace in the occupation of such Ruler during the relevant previous year shall be exempt from income-tax;

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(20) the income of a local authority which is chargeable under the head "Income from house property", "Capital gains" or "Income from other sources" or from a trade or business carried on by it which accrues or arises from the supply of a commodity or service (not being water or electricity) within its own jurisdictional area or from the supply of water or electricity within or outside its own jurisdictional area:

Explanation: For the purposes of this clause, the expression "local authority" means-

- (i) Panchayat as referred to in clause (d) of Article 243 of the Constitution; or
- (ii) Municipality as referred to in clause (e) of Article 243P of the Constitution; or
- (iii) Municipal Committee and District Board, legally entitled to, or entrusted by the Government with, the control or management of a Municipal or local fund; or
- (iv) Cantonment Board as defined in section 3 of the Cantonments Act, 1924 (2 of 1924);

(20A) [Omitted];

(21) any income of a research association] for the time being approved for the purpose of clause (ii) or clause (iii) of sub-section (1) of section 35:

Provided that the research association-

- (a) applies its income, or accumulates it for application, wholly and exclusively to the objects for which it is established, and the provisions of sub-section (2) and sub-section (3) of section 11

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shall apply in relation to such accumulation subject to the following modifications, namely:

(i) in sub-section (2), -

(1) the words, brackets, letters and figure "referred to in clause (a) or clause (b) of sub-section (1) read with the Explanation to that sub-section" shall be omitted;

(2) for the words "to charitable or religious purposes", the words "for the purposes of scientific research or research in social science or statistical research" shall be substituted;

(3) the reference to "Assessing Officer" in clause (a) thereof shall be construed as a reference to the "prescribed authority"<sup>73</sup> referred to in clause (ii) or clause (iii) of sub-section (1) of section 35;

(ii) in sub-section (3), in clause (a), for the words "charitable or religious purposes", the words "the purposes of scientific research or research in social science or statistical research" shall be substituted; and

(b) does not invest or deposit its funds, other than -

(i) any assets held by the research association where such assets form part of the corpus of the fund of the association as on the 1st day of June, 1973;

(ii) any assets (being debentures issued by, or on behalf of, any company or corporation), acquired by the research association before the 1st day of March, 1983;

(iii) any accretion to the shares, forming part of the corpus of the fund mentioned in sub-clause (i), by way of bonus shares allotted to the research association;

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(iv) voluntary contributions received and maintained in the form of jewellery, furniture or any other article as the Board may, by notification in the Official Gazette, specify, for any period during the previous year otherwise than in any one or more of the forms or modes specified in sub-section (5) of section 11 :

Provided further that the exemption under this clause shall not be denied in relation to voluntary contribution, other than voluntary contribution in cash or voluntary contribution of the nature referred to in clause (b) of the first proviso to this clause, subject to the condition that such voluntary contribution is not held by the research association, otherwise than in any one or more of the forms or modes specified in sub-section (5) of section 11, after the expiry of one year from the end of the previous year in which such asset is acquired or the 31st day of March, 1992, whichever is later :

Provided also that nothing contained in this clause shall apply in relation to any income of the research association, being profits and gains of business, unless the business is incidental to the attainment of its objectives and separate books of account are maintained by it in respect of such business;

Provided also that where the research association is approved by the Central Government and subsequently that Government is satisfied that -

(i) the research association has not applied its income in accordance with the provisions contained in clause (a) of the first proviso; or

(ii) the research association has not invested or deposited its funds in accordance with the provisions contained in clause (b) of the first proviso; or

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(iii) the activities of the research association are not genuine; or

(iv) the activities of the research association are not being carried out in accordance with all or any of the conditions subject to which such association was approved, it may, at any time after giving a reasonable opportunity of showing cause against the proposed withdrawal to the concerned association, by order, withdraw the approval and forward a copy of the order withdrawing the approval to such association and to the Assessing Officer;

(22) [Omitted];

(22A) [Omitted];

(22B) any income of such news agency set-up in India solely for collection and distribution of news as the Central Government may, by notification in the Official Gazette, specify in this behalf:

Provided that the news agency applies its income or accumulates it for application solely for collection and distribution of news and does not distribute its income in any manner to its members:

Provided further that any notification issued by the Central Government under this clause shall, at any one time, have effect for such assessment year or years, not exceeding three assessment years (including an assessment year or years commencing before the date on which such notification is issued) as may be specified in the notification;

Provided also that where the news agency has been specified, by notification, by the Central Government and subsequently that Government is satisfied that such news agency has not applied or accumulated or distributed its income in accordance with the

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provisions contained in the first proviso, it may, at any time after giving a reasonable opportunity of showing cause, rescind the notification and forward a copy of the order rescinding the notification to such agency and to the Assessing Officer;

Provided also that nothing contained in this clause shall apply to any income of the news agency of the previous year relevant to the assessment year beginning on or after the 1st day of April, 2024;

(23) [Omitted];

(23A) any income (other than income chargeable under the head "Income from house property" or any income received for rendering any specific services or income by way of interest or dividends derived from its investments) of an association or institution established in India having as its object the control, supervision, regulation or encouragement of the profession of law, medicine, accountancy, engineering or architecture or such other profession as the Central Government may specify in this behalf, from time to time, by notification in the Official Gazette :

Provided that -

(i) the association or institution applies its income, or accumulates it for application, solely to the objects for which it is established; and

(ii) the association or institution is for the time being approved for the purposes of this clause by the Central Government by general or special order;

Provided further that where the association or institution has been approved by the Central Government and subsequently that Government is satisfied that -

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(i) such association or institution has not applied or accumulated its income in accordance with the provisions contained in the first proviso; or

(ii) the activities of the association or institution are not being carried out in accordance with all or any of the conditions subject to which such association or institution was approved, it may, at any time after giving a reasonable opportunity of showing cause against the proposed withdrawal to the concerned association or institution, by order, withdraw the approval and forward a copy of the order withdrawing the approval to such association or institution and to the Assessing Officer;

(23AA) any income received by any person on behalf of any Regimental Fund or Non-Public Fund established by the armed forces of the Union for the welfare of the past and present members of such forces or their dependents;

(23AAA) any income received by any person on behalf of a fund established, for such purposes as may be notified by the Board in the Official Gazette, for the welfare of employees or their dependents and of which fund such employees are members if such fund fulfils the following conditions, namely :

(a) the fund-

(i) applies its income, or accumulates it for application, wholly and exclusively to the objects for which it is established; and

(ii) invests its funds and contributions and other sums received by it in the forms or modes specified in sub-section (5) of section 11;

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(b) the fund is approved by the 189[Principal Commissioner or Commissioner] in accordance with the rules<sup>80</sup> made in this behalf:

Provided that any such approval shall at any one time have effect for such assessment year or years not exceeding three assessment years as may be specified in the order of approval;

(23AAB) any income of a fund, by whatever name called, set-up by the Life Insurance Corporation of India on or after the 1st day of August, 1996 or any other insurer under a pension scheme,-

(i) to which contribution is made by any person for the purpose of receiving pension from such fund;

(ii) which is approved by the Controller of Insurance or the Insurance Regulatory and Development Authority established under subsection (1) of section 3 of the Insurance Regulatory and Development Authority Act, 1999 (41 of 1999), as the case may be.

Explanation : For the purposes of this clause, the expression "Controller of Insurance" shall have the meaning assigned to it in clause (5B) of section 2 of the Insurance Act, 1938 (4 of 1938);

(23B) any income of an institution constituted as a public charitable trust or registered under the Societies Registration Act, 1860 (21 of 1860), or under any law corresponding to that Act in force in any part of India, and existing solely for the development of khadi or village industries or both, and not for the purposes of profit, to the extent such income is attributable to the business of production, sale, or marketing, of khadi or products of village industries:

Provided that -

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(i) the institution applies its income, or accumulates it for application, solely for the development of khadi or village industries or both; and

(ii) the institution is, for the time being, approved for the purpose of this clause by the Khadi and Village Industries Commission :

Provided further that the Commission shall not, at any one time, grant such approval for more than three assessment years beginning with the assessment year next following the financial year in which it is granted:

Provided also that where the institution has been approved by the Khadi and Village Industries Commission and subsequently that Commission is satisfied that -

(i) the institution has not applied or accumulated its income in accordance with the provisions contained in the first proviso; or

(ii) the activities of the institution are not being carried out in accordance with all or any of the conditions subject to which such institution was approved, it may, at any time after giving a reasonable opportunity of showing cause against the proposed withdrawal to the concerned institution, by order, withdraw the approval and forward a copy of the order withdrawing the approval to such institution and to the Assessing Officer.

Explanation: For the purposes of this clause, -

(i) "Khadi and Village Industries Commission" means the Khadi and Village Industries Commission established under the Khadi and Village Industries Commission Act, 1956 (61 of 1956);

(ii) "khadi" and "village industries" have the meanings respectively assigned to them in that Act;

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(23BB) any income of an authority (whether known as the Khadi and Village Industries Board or by any other name) established in a State by or under a State or Provincial Act for the development of khadi or village industries in the State.

Explanation: For the purposes of this clause, "khadi" and "village industries" have the meanings respectively assigned to them in the Khadi and Village Industries Commission Act, 1956 (61 of 1956);

(23BBA) any income of any body or authority (whether or not a body corporate or corporation sole) established, constituted or appointed by or under any Central, State or Provincial Act which provides for the administration of any one or more of the following, that is to say, public religious or charitable trusts or endowments (including maths, temples, gurdwaras, wakfs, churches, synagogues, agiaries or other places of public religious worship) or societies for religious or charitable purposes registered as such under the Societies Registration Act, 1860 (21 of 1860), or any other law for the time being in force :

Provided that nothing in this clause shall be construed to exempt from tax the income of any trust, endowment or society referred to therein;

(23BBB) any income of the European Economic Community derived in India by way of interest, dividends or capital gains from investments made out of its funds under such scheme as the Central Government may, by notification in the Official Gazette, specify in this behalf.

Explanation: For the purposes of this clause, "European Economic Community" means the European Economic

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Community established by the Treaty of Rome of 25th March, 1957;

(23BBC) any income of the SAARC Fund for Regional Projects set-up by Colombo Declaration issued on the 21st day of December, 1991 by the Heads of State or Government of the Member-Countries of South Asian Association for Regional Cooperation established on the 8th day of December, 1985 by the Charter of the South Asian Association for Regional Cooperation;

(23BBD) any income of the Secretariat of the Asian Organisation of the Supreme Audit Institutions registered as "ASOSAI-SECRETARIAT" under the Societies Registration Act, 1860 (21 of 1860) for ten previous years relevant to the assessment years beginning on the 1st day of April, 2001 and ending on the 31st day of March, 2011;

(23BBE) any income of the Insurance Regulatory and Development Authority established under sub-section (1) of section 3 of the Insurance Regulatory and Development Authority Act, 1999 (41 of 1999);

(23BBG) any income of the Central Electricity Regulatory Commission constituted under sub-section (1) of section 76 of the Electricity Act, 2003 (36 of 2003);

(23BBH) any income of the Prasar Bharati (Broadcasting Corporation of India) established under sub-section (1) of Section 3 of the Prasar Bharati (Broadcasting Corporation of India) Act, 1990;

(23C) any income received by any person on behalf of -

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(i) the Prime Minister's National Relief Fund or the Prime Minister's Citizen Assistance and Relief in Emergency Situations Fund (PM CARES FUND); or

(ii) the Prime Minister's Fund (Promotion of Folk Art); or

(iii) the Prime Minister's Aid to Students Fund; or

(iiia) the National Foundation for Communal Harmony; or

(iiiia) the Swachh Bharat Kosh, set up by the Central Government; or

(iiiiaa) the Clean Ganga Fund, set up by the Central Government; or

(iiiiaaa) the Chief Minister's Relief Fund or the Lieutenant Governor's Relief Fund in respect of any State or Union territory as referred to in sub-clause (iiihf) of clause (a) of sub-section (2) of section 80G; or"

(iiiab) any university or other educational institution existing solely for educational purposes and not for purposes of profit, and which is wholly or substantially financed by the Government; or

(iiiaac) any hospital or other institution for the reception and treatment of persons suffering from illness or mental defectiveness or for the reception and treatment of persons during convalescence or of persons requiring medical attention or rehabilitation, existing solely for philanthropic purposes and not for purposes of profit, and which is wholly or substantially financed by the Government; or

Explanation.--For the purposes of sub-clauses (iiiab) and (iiiaac), any university or other educational institution, hospital or other

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institution referred therein, shall be considered as being substantially financed by the Government for any previous year, if the Government grant to such university or other educational institution, hospital or other institution exceeds such percentage of the total receipts including any voluntary contributions, as may be prescribed, of such university or other educational institution, hospital or other institution, as the case may be, during the relevant previous year;

(iiiad) any university or other educational institution existing solely for educational purposes and not for purposes of profit if the aggregate annual receipts of the person from such university or universities or educational institution or educational institutions do not exceed five crore rupees or

(iiiiae) any hospital or other institution for the reception and treatment of persons suffering from illness or mental defectiveness or for the reception and treatment of persons during convalescence or of persons requiring medical attention or rehabilitation, existing solely for philanthropic purposes and not for purposes of profit, if the aggregate annual receipts of the person from such hospital or hospitals or institution or institutions do not exceed five crore rupees

Explanation.--For the purposes of sub-clauses (iiiad) and (iiiiae), it is hereby clarified that if the person has receipts from university or universities or educational institution or institutions as referred to in sub-clause (iiiad), as well as from hospital or hospitals or institution or institutions as referred to in sub-clause (iiiiae), the exemptions under these clauses shall not apply, if the aggregate of annual receipts of the person from such university or universities or educational institution or institutions or hospital

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or hospitals or institution or institutions, exceed five crore rupees; or

(iv) any other fund or institution established for charitable purposes which may be approved by the Principal Commissioner or Commissioner, having regard to the objects of the fund or institution and its importance throughout India or throughout any State or States; or

(v) any trust (including any other legal obligation) or institution wholly for public religious purposes or wholly for public religious and charitable purposes, which may be approved by the Principal Commissioner or Commissioner, having regard to the manner in which the affairs of the trust or institution are administered and supervised for ensuring that the income accruing thereto is properly applied for the objects thereof; or

(vi) any university or educational institution existing solely for educational purposes and not for purposes of profit, other than those mentioned in sub-clause (iiiab) or sub-clause (iiiad) and which may be approved by the Principal Commissioner or Commissioner; or

(via) any hospital or other institution for the reception and treatment of persons suffering from illness or mental defectiveness or for the reception and treatment of persons during convalescence or of persons requiring medical attention or rehabilitation, existing solely for philanthropic purposes and not for purposes of profit, other than those mentioned in sub-clause (iiiaac) or sub-clause (iiiaae) and which may be approved by the Principal Commissioner or Commissioner:

Provided that the fund or trust or institution or any university or other educational institution or any hospital or other medical

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institution referred to in sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via) shall make an application before the 1st day of October, 2024, in the prescribed form and manner to the prescribed authority for the purpose of grant of the exemption, or continuance thereof, under sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via):

Provided further that the prescribed authority, before approving any fund or trust or institution or any university or other educational institution or any hospital or other medical institution, under sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via), may call for such documents (including audited annual accounts) or information from the fund or trust or institution or any university or other educational institution or any hospital or other medical institution, as the case may be, as it thinks necessary in order to satisfy itself about the genuineness of the activities of such fund or trust or institution or any university or other educational institution or any hospital or other medical institution, as the case may be, and the compliance of such requirements under any other law for the time being in force by such fund or trust or institution or any university or other educational institution or any hospital or other medical institution, as the case may be, as are material for the purpose of achieving its objects and the prescribed authority may also make such inquiries as it deems necessary in this behalf:

Provided that the exemption to the fund or trust or institution or university or other educational institution or hospital or other medical institution referred to in sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via), under the respective sub-clauses, shall not be available to it unless such fund or trust or institution or university or other educational institution or

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hospital or other medical institution makes an application in the prescribed form and manner to the Principal Commissioner or Commissioner, for grant of approval,--

(i) where such fund or trust or institution or university or other educational institution or hospital or other medical institution is approved under the second proviso as it stood immediately before its amendment by the Taxation and Other Laws (Relaxation and Amendment of Certain provisions) Act, 2020, within three months from the 1st day of April, 2021;

(ii) where such fund or trust or institution or university or other educational institution or hospital or other medical institution is approved and the period of such approval is due to expire, at least six months prior to expiry of the said period;

(iii) where such fund or trust or institution or university or other educational institution or hospital or other medical institution has been provisionally approved, at least six months prior to expiry of the period of the provisional approval or within six months of commencement of its activities, whichever is earlier;

(iv) in any other case, where activities of the fund or trust or institution or university or other educational institution or hospital or other medical institution have--

(A) not commenced, at least one month prior to the commencement of the previous year relevant to the assessment year from which the said approval is sought;

(B) commenced and no income or part thereof of the said fund or trust or institution or university or other educational institution or hospital or other medical institution has been excluded from the total income on account of applicability of sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via) or section 11 or

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section 12 for any previous year ending on or before the date of such application, at any time after the commencement of such activities,

Provided further that the Principal Commissioner or Commissioner, on receipt of an application made under the first proviso, before the 1st day of October, 2024, shall,--

(i) where the application is made under clause (i) of the said proviso, pass an order in writing granting approval to it for a period of five years;

(ii) where the application is made under clause (ii) or clause (iii) or sub-clause (B) of clause (iv) of the said proviso,--

(a) call for such documents or information from it or make such inquiries as he thinks necessary in order to satisfy himself about--

(A) the genuineness of activities of such fund or trust or institution or university or other educational institution or hospital or other medical institution; and

(B) the compliance of such requirements of any other law for the time being in force by it as are material for the purpose of achieving its objects; and

(b) after satisfying himself about the objects and the genuineness of its activities under item (A), and compliance of the requirements under item (B), of sub-clause (a),--

(A) pass an order in writing granting approval to it for a period of five years;

(B) if he is not so satisfied, pass an order in writing,--

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(I) in a case referred to in clause (ii) or clause (iii) of the first proviso, rejecting such application and also cancelling its approval;

(II) in a case referred to in sub-clause (B) of clause (iv) of the first proviso, rejecting such application, after affording it a reasonable opportunity of being heard;

(iii) where the application is made under sub-clause (A) of clause (iv) of the said proviso or the application made under clause (iv) of the said proviso, as it stood immediately before its amendment by the Finance Act, 2023, pass an order in writing granting approval to it provisionally for a period of three years from the assessment year from which the approval is sought, and send a copy of such order to the fund or trust or institution or university or other educational institution or hospital or other medical institution:

Provided also that the fund or trust or institution or any university or other educational institution or any hospital or other medical institution referred to in sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via)-

(a) applies its income, or accumulates it for application, wholly and exclusively to the objects for which it is established and in a case where more than fifteen per cent of its income is accumulated on or after the 1st day of April, 2002, the period of the accumulation of the amount exceeding fifteen per cent of its income shall in no case exceed five years; and

(b) does not invest or deposit its funds, other than-

(i) any assets held by the fund, trust or institution or any university or other educational institution or any hospital or other medical institution where such assets form part of the corpus of

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the fund, trust or institution or any university or other educational institution or any hospital or other medical institution as on the 1st day of June, 1973;

(ia) any asset, being equity shares of a public company, held by any university or other educational institution or any hospital or other medical institution where such assets form part of the corpus of any university or other educational institution or any hospital or other medical institution as on the 1st day of June, 1998;

(ii) any assets (being debentures issued by, or on behalf of, any company or corporation), acquired by the fund, trust or institution or any university or other educational institution or any hospital or other medical institution before the 1st day of March, 1983;

(iii) any accretion to the shares, forming part of the corpus mentioned in sub-clause (i) and sub-clause (ia), by way of bonus shares allotted to the fund, trust or institution or any university or other educational institution or any hospital or other medical institution;

(iv) voluntary contributions received and maintained in the form of jewellery, furniture or any other article as the Board may, by notification in the Official Gazette, specify, for any period during the previous year otherwise than in any one or more of the forms or modes specified in sub-section (5) of section 11:

Explanation 1.--For the removal of doubts, it is hereby clarified that for the purposes of this proviso, the income of the funds or trust or institution or any university or other educational institution or any hospital or other medical institution subject to the condition that such voluntary contributions are invested or

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deposited in one or more of the forms or modes specified in sub-section (5) of section 11 maintained specifically for such corpus, shall not include income in the form of voluntary contributions made with a specific direction that they shall form part of the corpus of such fund or trust or institution or any university or other educational institution or any hospital or other medical institution:

Explanation 1A.--For the purposes of this proviso, where the property held under a trust or institution referred to in clause (v) includes any temple, mosque, gurdwara, church or other place notified under clause (b) of sub-section (2) of section 80G, any sum received by such trust or institution as a voluntary contribution for the purpose of renovation or repair of such temple, mosque, gurdwara, church or other place, may, at its option, be treated by such trust or institution as forming part of the corpus of that trust or institution, subject to the condition that the trust or institution,--

- (a) applies such corpus only for the purpose for which the voluntary contribution was made;
- (b) does not apply such corpus for making contribution or donation to any person;
- (c) maintains such corpus as separately identifiable; and
- (d) invests or deposits such corpus in the forms and modes specified under sub-section (5) of section 11.

Explanation 1B.--For the purposes of Explanation 1A, where any trust or institution referred to in sub-clause (v) has treated any sum received by it as forming part of the corpus, and subsequently any of the conditions specified in clause (a) or clause (b) or clause (c) or clause (d) of the said Explanation is

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violated, such sum shall be deemed to be the income of such trust or institution of the previous year during which the violation takes place.

Explanation 2.--For the purposes of determining the amount of application under this proviso,--

(i) application for charitable or religious purposes from the corpus as referred to in Explanation 1, shall not be treated as application of income for charitable or religious purposes:

Provided that the amount not so treated as application or part thereof, shall be treated as application for charitable or religious purposes in the previous year in which the amount, or part thereof, is invested or deposited back, into one or more of the forms or modes specified in sub-section (5) of section 11 maintained specifically for such corpus, from the income of that year and to the extent of such investment or deposit;

Provided further that the provisions of the first proviso shall apply only if there was no violation of the conditions specified in the twelfth, thirteenth and twenty-first provisos, and those specified in Explanation 2 and Explanation 3, of this clause, at the time the application was made from the corpus:

Provided also that the amount invested or deposited back shall not be treated as application for charitable or religious purposes under the first proviso unless such investment or deposit is made within a period of five years from the end of the previous year in which such application was made from the corpus:

Provided also that nothing contained in the first proviso shall apply where the application from the corpus is made on or before the 31st day of March, 2021;

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(ii) application for charitable or religious purposes, from any loan or borrowing, shall not be treated as application of income for charitable or religious purposes:

Provided that the amount not so treated as application or part thereof, shall be treated as application for charitable or religious purposes in the previous year in which the loan or borrowing, or part thereof, is repaid from the income of that year and to the extent of such repayment:

Provided further that the provisions of the first proviso shall apply only if there was no violation of the conditions specified in the twelfth, thirteenth and twenty-first provisos, and those specified in Explanation 2 and Explanation 3, of this clause at the time the application was made from loan or borrowing:

Provided also that the amount repaid shall not be treated as application for charitable or religious purposes under the first proviso unless such repayment is made within a period of five years from the end of the previous year in which such application was made from loan or borrowing:

Provided also that nothing contained in the first proviso shall apply where the application from any loan or borrowing is made on or before the 31st day of March, 2021; and

(iii) any amount credited or paid out of the income of any fund or trust or institution or any university or other educational institution or any hospital or other medical institution referred to in sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via), other than the amount referred to in the twelfth proviso, to any other fund or trust or institution or any university or other educational institution or any hospital or other medical institution referred to in sub-clause (iv) or sub-clause (v) or sub-

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clause (vi) or sub-clause (via), or trust or institution registered under section 12AB, as the case may be, shall be treated as application for charitable or religious purposes only to the extent of eighty-five per cent. of such amount credited or paid.

Explanation 3.--For the purposes of determining the amount of application under this proviso, where eighty-five per cent of the income referred to in clause (a) of this proviso is not applied wholly and exclusively to the objects for which the fund or institution or trust or any university or other educational institution or any hospital or other medical institution referred to in sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via) is established, during the previous year but is accumulated or set apart, either in whole or in part, for application to such objects, such income so accumulated or set apart shall not be included in the total income of the previous year of the person in receipt of the income, if the following conditions are complied with, namely:--

(a) such person furnishes a statement in such form and manner, as may be prescribed, to the Assessing Officer stating the purpose for which the income is being accumulated or set apart and the period for which the income is to be accumulated or set apart, which shall in no case exceed five years;

(b) the money so accumulated or set apart is invested or deposited in the forms or modes specified in sub-section (5) of section 11; and

(c) the statement referred to in clause (a) is furnished at least two months prior to the due date specified under sub-section (1) of section 139 for furnishing the return of income for the previous year:

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Provided that in computing the period of five years referred to in clause (a), the period during which the income could not be applied for the purpose for which it is so accumulated or set apart, due to an order or injunction of any court, shall be excluded.

Explanation 4.--Any income referred to in Explanation 3, which-

(a) is applied for purposes other than wholly and exclusively to the objects for which the fund or institution or trust or any university or other educational institution or any hospital or other medical institution referred to in sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via) is established or ceases to be accumulated or set apart for application thereto; or

(b) ceases to remain invested or deposited in any of the forms or modes specified in subsection (5) of section 11; or

(c) is not utilised for the purpose for which it is so accumulated or set apart during the period referred to in clause (a) of Explanation 3; or

(d) is credited or paid to any trust or institution registered under section 12AA or section 12AB or to any fund or institution or trust or any university or other educational institution or any hospital or other medical institution referred to in sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via), shall be deemed to be the income of such person of the previous year--

(i) in which it is so applied or ceases to be so accumulated or set apart under clause (a); or

(ii) in which it ceases to remain so invested or deposited under clause (b); or

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(iii) being the last previous year of the period, for which the income is accumulated or set apart under clause (a) of Explanation 3, but not utilised for the purpose for which it is so accumulated or set apart under clause (c); or

(iv) in which it is credited or paid to any fund or institution or trust or any university or other educational institution or any hospital or other medical institution under clause (d).

Explanation 5.--Notwithstanding anything contained in Explanation 4, where due to circumstances beyond the control of the person in receipt of the income, any income invested or deposited in accordance with the provisions of clause (b) of Explanation 3 cannot be applied for the purpose for which it was accumulated or set apart, the Assessing Officer may, on an application made to him in this behalf, allow such person to apply such income for such other purpose in India as is specified in the application by that person and as is in conformity with the objects for which the fund or institution or trust or any university or other educational institution or any hospital or other medical institution referred to in sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via) is established; and thereupon the provisions of Explanation 4 shall apply as if the purpose specified by that person in the application under this Explanation were a purpose specified in the notice given to the Assessing Officer under clause (a) of Explanation 3:

Provided that the Assessing Officer shall not allow application of such income by way of payment or credit made for the purposes referred to in clause (d) of Explanation 4:

Provided also that the exemption under sub-clause (iv) or sub-clause (v) shall not be denied in relation to any funds invested or deposited before the 1st day of April, 1989, otherwise than in any

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one or more of the forms or modes specified in sub-section (5) of section 11 if such funds do not continue to remain so invested or deposited after the 30th day of March, 1993:

Provided also that the exemption under sub-clause (vi) or sub-clause (via) shall not be denied in relation to any funds invested or deposited before the 1st day of June, 1998, otherwise than in any one or more of the forms or modes specified in sub-section (5) of section 11 if such funds do not continue to remain so invested or deposited after the 30th day of March, 2001:

Provided also that the exemption under sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via) shall not be denied in relation to voluntary contribution, other than voluntary contribution in cash or voluntary contribution of the nature referred to in clause (b) of the third proviso to this sub-clause, subject to the condition that such voluntary contribution is not held by the trust or institution or any university or other educational institution or any hospital or other medical institution, otherwise than in any one or more of the forms or modes specified in sub-section (5) of section 11, after the expiry of one year from the end of the previous year in which such asset is acquired or the 31st day of March, 1992, whichever is later:

Provided also that nothing contained in sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via) shall apply in relation to any income of the fund or trust or institution or any university or other educational institution or any hospital or other medical institution, being profits and gains of business, unless the business is incidental to the attainment of its objectives and separate books of account are maintained by it in respect of such business:

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Provided also that any notification issued by the Central Government under sub-clause (iv) or sub-clause (v), before the date on which the Taxation Laws (Amendment) Bill, 2006 receives the assent of the President, shall, at any one time, have effect for such assessment year or years, not exceeding three assessment years (including an assessment year or years commencing before the date on which such notification is issued) as may be specified in the notification:

Provided also that where an application under the first proviso is made on or after the date on which the Taxation Laws (Amendment) Bill, 2006 receives the assent of the President, every notification under sub-clause (iv) or sub-clause (v) shall be issued or approval under sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via) shall be granted or an order rejecting the application shall be passed within the period of twelve months from the end of the month in which such application was received:

Provided also that where the total income of the fund or institution or trust or any university or other educational institution or any hospital or other medical institution referred to in sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via), without giving effect to the provisions of the said sub-clauses, exceeds the maximum amount which is not chargeable to tax in any previous year, such fund or institution or trust or any university or other educational institution or any hospital or other medical institution shall--

(a) keep and maintain books of account and other documents in such form and manner and at such place, as may be prescribed; and

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(b) get its accounts audited in respect of that year by an accountant as defined in the Explanation below sub-section (2) of section 288 before the specified date referred to in section 44AB and furnish by that date, the report of such audit in the prescribed form duly signed and verified by such accountant and setting forth such particulars as may be prescribed:

Provided also that the order under clause (i), sub-clause (b) of clause (ii) and clause (iii) of the second proviso shall be passed, in such form and manner as may be prescribed, before expiry of the period of three months, six months and one month, respectively, calculated from the end of the month in which the application was received:

Provided also that no approval under the second proviso shall be granted in relation to any application made on or after the 1st day of October, 2024:

Provided also that where the total income, of the fund or trust or institution or any university or other educational institution or any hospital or other medical institution referred to in sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via), without giving effect to the provisions of the said sub-clauses, exceeds the maximum amount which is not chargeable to tax in any previous year, such trust or institution or any university or other educational institution or any hospital or other medical institution shall get its accounts audited in respect of that year by an accountant as defined in the Explanation below sub-section (2) of section 288 before the specified date referred to in section 44AB and furnish by that date, the report of such audit in the prescribed form duly signed and verified by such accountant and setting forth such particulars as may be prescribed:

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Provided also that any amount of donation received by the fund or institution in terms of clause (d) of sub-section (2) of section 80G in respect of which accounts of income and expenditure have not been rendered to the authority prescribed under clause (v) of sub-section (5C) of that section, in the manner specified in that clause, or which has been utilised for purposes other than providing relief to the victims of earthquake in Gujarat or which remains unutilised in terms of sub-section (5C) of section 80G and not transferred to the Prime Minister's National Relief Fund on or before the 31st day of March, 2004 shall be deemed to be the income of the previous year and shall accordingly be charged to tax:

Provided also that any amount credited or paid out of income of any fund or trust or institution or any university or other educational institution or any hospital or other medical institution referred to in sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via), to any other fund or trust or institution or any university or other educational institution or any hospital or other medical institution referred to in sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via) or trust or institution registered under section 12AA or section 12AB, being voluntary contribution made with a specific direction that they shall form part of the corpus, shall not be treated as application of income to the objects for which such fund or trust or institution or university or educational institution or hospital or other medical institution, as the case may be, is established:

Provided also that where the fund or institution referred to in sub-clause (iv) or trust or institution referred to in sub-clause (v) or any university or other educational institution referred to in sub-clause (vi) or any hospital or other medical institution referred to

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in sub-clause (via) is approved under the said clause and subsequently--

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

(b) the Principal Commissioner or Commissioner has received a reference from the Assessing Officer under the second proviso to subsection (3) of section 143 for any previous year; or

(c) such case has been selected in accordance with the risk management strategy, formulated by the Board from time to time, for any previous year, the Principal Commissioner or Commissioner shall--

(i) call for such documents or information from the fund or institution or trust or any university or other educational institution or any hospital or other medical institution, 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 cancelling the approval of such fund or institution or trust or any university or other educational institution or any hospital or other medical institution, on or before the specified date, after affording a reasonable opportunity of being heard, for such previous year and all subsequent previous years, if he is satisfied that one or more specified violation has taken place;

(iii) pass an order in writing refusing to cancel the approval of such fund or institution or trust or any university or other educational institution or any hospital or other medical institution, on or before the specified date, if he is not satisfied about the occurrence of one or more specified violations;

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(iv) forward a copy of the order under clause (ii) or clause (iii), as the case may be, to the Assessing Officer and such fund or institution or trust or any university or other educational institution or any hospital or other medical institution.

Explanation 1.--For the purposes of this proviso, "specified date" shall mean the day on which the period of six months, calculated from the end of the quarter in which the first notice is issued by the Principal Commissioner or Commissioner, on or after the 1st day of April, 2022, calling for any document or information, or for making any inquiry, under clause (i) expires.

Explanation 2.--For the purposes of this proviso, the following shall mean "specified violation",--

(a) where any income of the fund or institution or trust or any university or other educational institution or any hospital or other medical institution has been applied other than for the objects for which it is established; or

(b) the fund or institution or trust or any university or other educational institution or any hospital or other medical institution has income from profits and gains of business, which is not incidental to the attainment of its objectives or separate books of account are not maintained by it in respect of the business which is incidental to the attainment of its objectives; or

(c) any activity of the fund or institution or trust or any university or other educational institution or any hospital or other medical institution--

(A) is not genuine; or

(B) is not being carried out in accordance with all or any of the conditions subject to which it was notified or approved; or

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(d) the fund or institution or trust or any university or other educational institution or any hospital or other medical institution has not complied with the requirement of any other law for the time being in force, and the order, direction or decree, by whatever name called, holding that such non-compliance has occurred, has either not been disputed or has attained finality; or

(e) the application referred to in the first proviso of this clause is not complete or it contains false or incorrect information.

Explanation 3.--For the purposes of clause (b) of this proviso, where the Assessing Officer has intimated the Central Government or the prescribed authority under the first proviso of sub-section (3) of section 143 about the contravention of the provisions of sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via) of this clause by any fund or institution or trust or university or other educational institution or any hospital or other medical institution in respect of an assessment year, and the approval granted to such fund or institution or trust or university or other educational institution or any hospital or other medical institution has not been withdrawn, or the notification issued in its case has not been rescinded, on or before the 31st day of March, 2022, such intimation shall be deemed to be a reference received by the Principal Commissioner or Commissioner as on the 1st day of April, 2022, and the provisions of clause (b) of the second proviso to sub-section (3) of section 143 shall apply accordingly for such assessment year.

Provided also that where the fund or trust or institution or any university or other educational institution or any hospital or other medical institution referred to in sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via) does not apply its income during the year of receipt and accumulates it, any payment or

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credit out of such accumulation to any trust or institution registered under section 12AA or section 12AB or to any fund or trust or institution or any university or other educational institution or any hospital or other medical institution referred to in sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via) shall not be treated as application of income to the objects for which such fund or trust or institution or university or educational institution or hospital or other medical institution, as the case may be, is established:

Provided also that in case the fund or trust or institution or any university or other educational institution or any hospital or other medical institution referred to in the first proviso makes an application on or after the 1st day of June, 2006 for the purposes of grant of exemption or continuance thereof, such application shall be made on or before the 30th day of September of the relevant assessment year from which the exemption is sought:

Provided also that in case the fund or trust or institution or any university or other educational institution or any hospital or other medical institution referred to in the first proviso makes an application on or after the 1st day of June, 2006 for the purposes of grant of exemption or continuance thereof, such application shall be made on or before the 30th day of September of the relevant assessment year from which the exemption is sought:

[Proviso sixteen omitted]

Provided also that any anonymous donation referred to in section 115BBC on which tax is payable in accordance with the provisions of the said section shall be included in the total income:

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Provided also that all applications made under the first proviso as it stood before its amendment by the Finance Act, 2020 pending before the Principal Commissioner or Commissioner, on which no order has been passed before the date on which the first proviso has come into force, shall be deemed to be an application made under clause (iv) of the first proviso on that date:

Provided also that all pending applications, on which no notification has been issued under sub-clause (iv) or sub-clause (v) before the 1st day of June, 2007, shall stand transferred on that day to the prescribed authority and the prescribed authority may proceed with such applications under those sub-clauses from the stage at which they were on that day:

Provided also that all applications made under the first proviso as it stood before its amendment by the Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 pending before the Principal Commissioner or Commissioner, on which no order has been passed before the 1st day of April, 2021, shall be deemed to be applications made under clause (iv) of the first proviso on that date:

Provided also that where the fund or institution referred to in sub-clause (iv) or the trust or institution referred to in sub-clause (v) or any university or other educational institution referred to in sub-clause (vi) or any hospital or other medical institution referred to in sub-clause (via) has been approved by the Principal Commissioner or Commissioner, and the approval is in force for any previous year, then, nothing contained in any other provision of this section, other than clause (1) thereof, shall operate to exclude any income received on behalf of such fund or institution or trust or university or other educational institution or hospital

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or other medical institution, as the case may be, from the total income of the person in receipt thereof for that previous year:

Provided also that the fund or institution or trust or any university or other educational institution or any hospital or other medical institution referred to in sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via) shall furnish the return of income for the previous year in accordance with the provisions of sub-section (4C) of section 139, within the time allowed under sub-section (1) or sub-section (4) of that section:

Provided also that where the income or part of income or property of any fund or institution or trust or any university or other educational institution or any hospital or other medical institution referred to in sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via), has been applied directly or indirectly for the benefit of any person referred to in sub-section (3) of section 13, such income or part of income or property shall, after taking into account the provisions of sub-sections (2), (4) and (6) of the said section, be deemed to be the income of such person of the previous year in which it is so applied:

Provided also that where any fund or institution or trust or any university or other educational institution or any hospital or other medical institution referred to in sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via) violates the conditions of the tenth proviso or twentieth proviso, or where the provisions of the eighteenth proviso are applicable, its income chargeable to tax shall be computed after allowing deduction for the expenditure (other than capital expenditure) incurred in India, for the objects of the fund or institution or trust or the university or other educational institution or the hospital or other medical

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institution, subject to fulfilment of the following conditions, namely:--

- (a) such expenditure is not from the corpus standing to the credit of the fund or institution or trust or the university or other educational institution or the hospital or other medical institution as on the end of the financial year immediately preceding the previous year relevant to the assessment year for which the income is being computed;
- (b) such expenditure is not from any loan or borrowing;
- (c) 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 previous year; and
- (d) such expenditure is not in the form of any contribution or donation to any person.

Explanation.--For the purposes of determining the amount of expenditure under this proviso, the provisions of sub-clause (ia) of clause (a) of section 40 and subsections (3) and (3A) of section 40A shall, mutatis mutandis, apply as they apply in computing the income chargeable under the head "Profits and gains of business or profession":

Provided also that for the purposes of computing income chargeable to tax under the twenty-second proviso, no deduction in respect of any expenditure or allowance or set-off of any loss shall be allowed to the assessee under any other provision of this Act:

Explanation 1.-In this clause, where any income is required to be applied or accumulated, then, for such purpose the income shall be determined without any deduction or allowance by way of

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depreciation or otherwise in respect of any asset, acquisition of which has been claimed as an application of income under this clause in the same or any other previous year;

Explanation 2.--For the purposes of this clause, it is clarified that the calculation of income required to be applied or accumulated during the previous year shall be made without any set off or deduction or allowance of any excess application of any of the year preceding to the previous year;

Explanation 3.--For the purposes of this clause, any sum payable by any fund or institution or trust or any university or other educational institution or any hospital or other medical institution referred to in sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via) shall be considered as application of income during the previous year in which such sum is actually paid by it (irrespective of the previous year in which the liability to pay such sum was incurred by the fund or institution or trust or any university or other educational institution or any hospital or other medical institution according to the method of accounting regularly employed by it):

Provided that where during any previous year any sum has been claimed to have been applied by the fund or institution or trust or any university or other educational institution or any hospital or other medical institution, such sum shall not be allowed as application in any subsequent previous year;

(23D) any income of -

(i) a Mutual Fund registered under the Securities and Exchange Board of India Act, 1992 (15 of 1992) or regulations made there under ;

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(ii) such other Mutual Fund set-up by a public sector bank or a public financial institution or authorised by the Reserve Bank of India and subject to such conditions as the Central Government may, by notification in the Official Gazette, specify in this behalf.

Explanation: For the purposes of this clause, -

(a) the expression "public sector bank" means the State Bank of India constituted under the State Bank of India Act, 1955 (23 of 1955), a subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959 (38 of 1959), a corresponding new Bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (5 of 1970), or under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980 (40 of 1980) and a bank included in the category other public sector banks' by the Reserve Bank of India;

(b) the expression "public financial institution" shall have the meaning assigned to it in section 4A of the Companies Act, 1956 (1 of 1956) ;

(c) the expression "Securities and Exchange Board of India" shall have the meaning assigned to it in clause (a) of sub-section (1) of section 2 of the Securities and Exchange Board of India Act, 1992 (15 of 1992);

(23DA) any income of a securitisation trust from the activity of securitisation.

Explanation.--For the purposes of this clause,--

(a) "securitisation" shall have the same meaning as assigned to it,--

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(i) in clause (r) of sub-regulation (1) of regulation 2 of the Securities and Exchange Board of India (Public Offer and Listing of Securitised Debt Instruments) Regulations, 2008 made under the Securities and Exchange Board of India Act, 1992(15 of 1992) and the Securities Contracts (Regulation) Act, 1956(42 of 1956); or

(ia) in clause (z) of sub-section (1) of section 2 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (54 of 2002); or

(ii) under the guidelines on securitisation of standard assets issued by the Reserve Bank of India;

(b) "securitisation trust" shall have the meaning assigned to it in the Explanation below section 115TCA;

(23E) [Omitted];

(23EA) any income, by way of contributions received from recognised stock exchanges and the members thereof of such Investor Protection Fund set-up by recognised stock exchanges in India, either jointly or separately, as the Central Government may, by notification in the Official Gazette, specify in this behalf:

Provided that where any amount standing to the credit of the Fund and not charged to income-tax during any previous year is shared, either wholly or in part, with a recognised stock exchange, the whole of the amount so shared shall be deemed to be the income of the previous year in which such amount is so shared and shall accordingly be chargeable to income-tax;

(23EC) any income, by way of contributions received from commodity exchanges and the members thereof, of such Investor

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Protection Fund set up by commodity exchanges in India, either jointly or separately, as the Central Government may, by notification in the Official Gazette, specify in this behalf:

Provided that where any amount standing to the credit of the said Fund and not charged to income-tax during any previous year is shared, either wholly or in part, with a commodity exchange, the whole of the amount so shared shall be deemed to be the income of the previous year in which such amount is so shared and shall accordingly be chargeable to income-tax.

Explanation: For the purposes of this clause, "commodity exchange" shall mean a "registered association" as defined in clause (jj) of section 2 of the Forward Contracts (Regulation) Act, 1952 (74 of 1952);

(23ED) any income, by way of contributions received from a depository, of such Investor Protection Fund set up in accordance with the regulations by a depository as the Central Government may, by notification in the Official Gazette, specify in this behalf:

Provided that where any amount standing to the credit of the Fund and not charged to income-tax during any previous year is shared, either wholly or in part with a depository, the whole of the amount so shared shall be deemed to be the income of the previous year in which such amount is so shared and shall, accordingly, be chargeable to income-tax.

Explanation.--For the purposes of this clause,--

(i) "depository" shall have the same meaning as assigned to it in clause (e) of sub-section (1) of section 2 of the Depositories Act, 1996(22 of 1996);

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(ii) "regulations" means the regulations made under the Securities and Exchange Board of India Act, 1992(15 of 1992) and the Depositories Act, 1996(22 of 1996);

(23EE) any specified income of such Core Settlement Guarantee Fund, set up by a recognised clearing corporation in accordance with the regulations, as the Central Government may, by notification in the Official Gazette, specify in this behalf:

Provided that where any amount standing to the credit of the Fund and not charged to income-tax during any previous year is shared, either wholly or in part with the specified person, the whole of the amount so shared shall be deemed to be the income of the previous year in which such amount is so shared and shall, accordingly, be chargeable to income-tax.

Explanation.--For the purposes of this clause,--

(i) "recognised clearing corporation" shall have the same meaning as assigned to it in clause (o) of sub-regulation (1) of regulation 2 of the Securities Contracts (Regulation) (Stock Exchanges and Clearing Corporations) Regulations, 2012 made under the Securities and Exchange Board of India Act, 1992 (15 of 1992) and the Securities Contracts (Regulation) Act, 1956 (42 of 1956) or clause (n) of sub-regulation (1) of regulation 2 of the International Financial Services Centres Authority (Market Infrastructure Institutions) Regulations, 2021 made under the International Financial Services Centres Authority Act, 2019 (50 of 2019);

(ii) "regulations" means the Securities Contracts (Regulation) (Stock Exchanges and Clearing Corporations) Regulations, 2012 made under the Securities and Exchange Board of India Act, 1992 (15 of 1992) and the Securities Contracts (Regulation) Act,

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1956 (42 of 1956) or the International Financial Services Centres Authority (Market Infrastructure Institutions) Regulations, 2021 made under the International Financial Services Centres Authority Act, 2019 (50 of 2019);

(iii) "specified income" shall mean,--

(a) the income by way of contribution received from specified persons;

(b) the income by way of penalties imposed by the recognised clearing corporation and credited to the Core Settlement Guarantee Fund; or

(c) the income from investment made by the Fund;

(iv) "specified person" shall mean,--

(a) any recognised clearing corporation which establishes and maintains the Core Settlement Guarantee Fund; and

(b) any recognised stock exchange, being a shareholder in such recognised clearing corporation, or a contributor to the Core Settlement Guarantee Fund; and

(c) any clearing member contributing to the Core Settlement Guarantee Fund;]

(23F) any income by way of dividends or long-term capital gains of a venture capital fund or a venture capital company from investments made by way of equity shares in a venture capital undertaking:

Provided that such venture capital fund or venture capital company is approved for the purposes of this clause by the prescribed authority<sup>127</sup> in accordance with the rules<sup>128</sup> made in this behalf and satisfies the prescribed conditions :

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Provided further that any approval by the prescribed authority<sup>127</sup> shall, at any one time, have effect for such assessment year or years, not exceeding three assessment years, as may be specified in the order of approval:

[Third and fourth provisos omitted]

Provided also that nothing contained in this clause shall apply in respect of any investment made after the 31st day of March, 1999:

Explanation: For the purposes of this clause, -

(a) "venture capital fund" means such fund, operating under a trust deed registered under the provisions of the Registration Act, 1908 (16 of 1908), established to raise monies by the trustees for investments mainly by way of acquiring equity shares of a venture capital undertaking in accordance with the prescribed guidelines<sup>131</sup> ;

(b) "venture capital company" means such company as has made investments by way of acquiring equity shares of venture capital undertakings in accordance with the prescribed guidelines<sup>132</sup> ;  
and

(c) "venture capital undertaking" means such domestic company whose shares are not listed in a recognised stock exchange in India and which is engaged in the business of generation or generation and distribution of electricity or any other form of power or engaged in the business of providing telecommunication services or in the business of developing, maintaining and operating any infrastructure facility or engaged in the manufacture or production of such articles or things (including computer software) as may be notified by the Central Government in this behalf ;

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(d) "infrastructure facility" means road, highway, bridge, airport, port, rail system, water supply project, irrigation project, sanitation and sewerage system or any other public facility of a similar nature as may be notified by the Board in this behalf in the Official Gazette and which fulfils the conditions specified in sub-section (1A) of section 80-IA ;

(23FA) any income by way of dividends, other than dividends referred to in section 115-O or long-term capital gains of a venture capital fund or a venture capital company from investments made by way of equity shares in a venture capital undertaking :

Provided that such venture capital fund or venture capital company is approved, for the purposes of this clause, by the Central Government on an application made to it in accordance with the rules<sup>136</sup> made in this behalf and which satisfies the prescribed conditions<sup>136</sup> :

Provided further that any approval by the Central Government shall, at any one time, have effect for such assessment year or years, not exceeding three assessment years, as may be specified in the order of approval;

Provided also that nothing contained in this clause shall apply in respect of any investment made after the 31st day of March, 2000:

Explanation: For the purposes of this clause, -

(a) "venture capital fund" means such fund, operating under a trust deed registered under the provisions of the Registration Act, 1908 (16 of 1908), established to raise monies by the trustees for

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investments mainly by way of acquiring equity shares of a venture capital undertaking in accordance with the prescribed guidelines<sup>138</sup> ;

(b) "venture capital company" means such company as has made investments by way of acquiring equity shares of venture capital undertakings in accordance with the prescribed guidelines<sup>138</sup> ; and

(c) "venture capital undertaking" means such domestic company whose shares are not listed in a recognised stock exchange in India and which is engaged in the -

(i) business of -

(A) software ;

(B) information technology ;

(C) production of basic drugs in the pharmaceutical sector ;

(D) bio-technology ;

(E) agriculture and allied sectors ; or

(F) such other sectors as may be notified by the Central Government in this behalf ; or

(ii) production or manufacture of any article or substance for which patent has been granted to the National Research Laboratory or any other scientific research institution approved by the Department of Science and Technology ;

(23FB) any income of a venture capital company or venture capital fund <sup>140</sup>[from investment] in a venture capital undertaking:

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Provided that nothing contained in this clause shall apply in respect of any income of a venture capital company or venture capital fund, being an investment fund specified in clause (a) of the Explanation 1 to section 115UB, of the previous year relevant to the assessment year beginning on or after the 1st day of April, 2016;

Explanation.--For the purposes of this clause,--

(a) "venture capital company" means a company which--

(A) has been granted a certificate of registration, before the 21st day of May, 2012, as a Venture Capital Fund and is regulated under the Securities and Exchange Board of India (Venture Capital Funds) Regulations, 1996 (hereinafter referred to as the Venture Capital Funds Regulations) made under the Securities and Exchange Board of India Act, 1992(15 of 1992); or

(B) has been granted a certificate of registration as Venture Capital Fund as a sub-category of Category I Alternative Investment Fund and is regulated under the Securities and Exchange Board of India (Alternative Investment Funds) Regulations, 2012 (hereinafter referred to as the Alternative Investment Funds Regulations) made under the Securities and Exchange Board of India Act, 1992(15 of 1992), and which fulfils the following conditions, namely:--

(i) it is not listed on a recognised stock exchange;

(ii) it has invested not less than two-thirds of its investible funds in unlisted equity shares or equity linked instruments of venture capital undertaking; and

(iii) it has not invested in any venture capital undertaking in which its director or a substantial shareholder (being a beneficial

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owner of equity shares exceeding ten per cent. of its equity share capital) holds, either individually or collectively, equity shares in excess of fifteen per cent. of the paid-up equity share capital of such venture capital undertaking;

(b) "venture capital fund" means a fund--

(A) operating under a trust deed registered under the provisions of the Registration Act, 1908(16 of 1908), which--

(I) has been granted a certificate of registration, before the 21st day of May, 2012, as a Venture Capital Fund and is regulated under the Venture Capital Funds Regulations; or

(II) has been granted a certificate of registration as Venture Capital Fund as a sub-category of Category I Alternative Investment Fund under the Alternative Investment Funds Regulations or as referred to in sub-regulation (2) of regulation 18 of the International Financial Services Centres Authority (Fund Management) Regulations, 2022 made under the International Financial Services Centres Authority Act, 2019 (50 of 2019), and which fulfils the following conditions, namely:--

(i) it has invested not less than two-thirds of its investible funds in unlisted equity shares or equity linked instruments of venture capital undertaking;

(ii) it has not invested in any venture capital undertaking in which its trustee or the settler holds, either individually or collectively, equity shares in excess of fifteen per cent. of the paid-up equity share capital of such venture capital undertaking;

(iii) the units, if any, issued by it are not listed in any recognised stock exchange; and

(iv) any other condition as may be prescribed; or

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(B) operating as a venture capital scheme made by the Unit Trust of India established under the Unit Trust of India Act, 1963(52 of 1963);

(c) "venture capital undertaking" means--

(i) a venture capital undertaking as defined in clause (n) of regulation 2 of the Venture Capital Funds Regulations; or

(ii) a venture capital undertaking as defined in clause (aa) of sub-regulation (1) of regulation 2 of the Alternative Investment Funds Regulations;

(23FBA) any income of an investment fund other than the income chargeable under the head "Profits and gains of business or profession";

(23FBB) any income referred to in section 115UB, accruing or arising to, or received by, a unit holder of an investment fund, being that proportion of income which is of the same nature as income chargeable under the head "Profits and gains of business or profession".

Explanation.--For the purposes of clauses (23FBA) and (23FBB), the expression "investment fund" shall have the meaning assigned to it in clause (a) of the Explanation 1 to section 115UB;

(23FBC) any income accruing or arising to, or received by, a unit holder from a specified fund or on transfer of units in a specified fund:

Explanation.--For the purposes of this clause, the expressions--

(a) "specified fund" shall have the same meaning as assigned to it in clause (c) of the Explanation to clause (4D);

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(b) "unit" means beneficial interest of an investor in the fund and shall include shares or partnership interests.

(23FC) any income of a business trust by way of--

(a) interest received or receivable from a special purpose vehicle;  
or

(b) dividend received or receivable from a special purpose vehicle

Explanation.--For the purposes of this clause, the expression "special purpose vehicle" means an Indian company in which the business trust holds controlling interest and any specific percentage of shareholding or interest, as may be required by the regulations under which such trust is granted registration;

(23FCA) any income of a business trust, being a real estate investment trust, by way of renting or leasing or letting out any real estate asset owned directly by such business trust.

Explanation.--For the purposes of this clause, the expression "real estate asset" shall have the same meaning as assigned to it in clause (zj) of sub-regulation (1) of regulation 2 of the Securities and Exchange Board of India (Real Estate Investment Trusts) Regulations, 2014 made under the Securities and Exchange Board of India Act, 1992 (15 of 1992);

(23FD) any distributed income, referred to in section 115UA, received by a unit holder from the business trust, not being that proportion of the income which is of the same nature as the income referred to in sub-clause (a) of clause (23FC) or sub-clause (b) of said clause (in a case where the special purpose vehicle has exercised the option under section 115BAA) or clause (23FCA);

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(23FE) any income of a specified person in the nature of dividend, interest, any sum referred to in clause (xii) of sub-section (2) of section 56 or long-term capital gains (whether or not such capital gains are deemed as short-term capital gains under section 50AA) arising from an investment made by it in India, whether in the form of debt or share capital or unit, if the investment--

(i) is made on or after the 1st day of April, 2020 but on or before the 31st day of March, 2030;

(ii) is held for at least three years; and

(iii) is in--

(a) a business trust referred to in sub-clause (i) of clause (13A) of section 2; or

(b) a company or enterprise or an entity carrying on the business of developing, or operating and maintaining, or developing, operating and maintaining any infrastructure facility as defined in the Explanation to clause (i) of sub-section (4) of section 80-IA or such other business as the Central Government may, by notification in the Official Gazette, specify in this behalf; or

(c) a Category-I or Category-II Alternative Investment Fund regulated under the Securities and Exchange Board of India (Alternative Investment Fund) Regulations, 2012 made under the Securities and Exchange Board of India Act, 1992 (15 of 1992), having not less than fifty per cent. investment in one or more of the company or enterprise or entity referred to in item (b) or item (d) or item (e) or in an Infrastructure Investment Trust referred to in sub-clause (i) of clause (13A) of section 2; or:

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(d) a domestic company, set up and registered on or after the 1st day of April, 2021, having minimum seventy-five per cent. investments in one or more of the companies or enterprises or entities referred to in item (b); or

(e) a non-banking financial company registered as an Infrastructure Finance Company as referred to in notification number RBI/2009-10/316 issued by the Reserve Bank of India or in an Infrastructure Debt Fund, a non-banking finance company, as referred to in the Infrastructure Debt Fund-Non-Banking Financial Companies (Reserve Bank) Directions, 2011, issued by the Reserve Bank of India, having minimum ninety per cent. lending to one or more of the companies or enterprises or entities referred to in item (b):

Provided that if any difficulty arises regarding interpretation or implementation of the provisions of this clause, the Board may, with the approval of the Central Government, issue guidelines for the purpose of removing the difficulty:

Provided further that every guideline issued under the first proviso, shall be laid before each House of Parliament and shall be binding on the income-tax authority and the specified person:

Provided also that where any income has not been included in the total income of the specified person due to the provisions of this clause, and subsequently during any previous year the specified person fails to satisfy any of the conditions of this clause so that the said income would not have been eligible for such non-inclusion, such income shall be chargeable to income-tax as the income of the specified person of that previous year.

Provided also that in case a Category-I or Category-II Alternative Investment Fund referred to in item (c) of sub-clause (iii) has

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investment of less than one hundred per cent in one or more of the companies or enterprises or entities referred to in item (b) or item (d) or item (e) of the said sub-clause or in an Infrastructure Investment Trust referred to in item (c) of the said sub-clause, income accrued or arisen or received or attributable to such investment, directly or indirectly, which is exempt under this clause shall be calculated proportionately to that investment made in one or more of the companies or enterprises or entities referred to in item (b) or item (d) or item (e) of the said sub-clause or in the Infrastructure Investment Trust referred to in item (c) of the said sub-clause, in such manner as may be prescribed:

Provided also that in case a domestic company referred to in item (d) of sub-clause (iii) has investment of less than one hundred per cent in one or more of the companies or enterprises or entities referred to in item (b) of the said sub-clause, income accrued or arisen or received or attributable to such investments, directly or indirectly, which is exempt under this clause shall be calculated proportionately to the investment made in one or more of the companies or enterprises or entities referred to in item (b) of the said sub-clause, in such manner as may be prescribed:

Provided also that in case a non-banking finance company registered as an Infrastructure Finance Company or Infrastructure Debt Fund, referred to in item (e) of sub-clause (iii), has lending of less than one hundred per cent. in one or more of the companies or enterprises or entities referred to in item (b) of the said sub-clause, income accrued or arisen or received or attributable to such lending, directly or indirectly, which is exempt under this clause shall be calculated proportionately to the lending made in one or more of the companies or enterprises

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or entities referred to in item (b) of the said sub-clause, in such manner as may be prescribed:

Provided also that in case a sovereign wealth fund or pension fund has loans or borrowings, directly or indirectly, for the purposes of making investment in India, such fund shall be deemed to be not eligible for exemption under this clause.

Explanation 1.--For the purposes of this clause, "specified person" means--

(a) a wholly owned subsidiary of the Abu Dhabi Investment Authority which--

(i) is a resident of the United Arab Emirates; and

(ii) makes investment, directly or indirectly, out of the fund owned by the Government of the Abu Dhabi;

(b) a sovereign wealth fund which satisfies the following conditions, namely:--

(i) it is wholly owned and controlled, directly or indirectly, by the Government of a foreign country;

(ii) it is set up and regulated under the law of such foreign country;

(iii) the earnings of the said fund are credited either to the account of the Government of that foreign country or to any other account designated by that Government so that no portion of the earnings inures any benefit to any private person;

(iv) the asset of the said fund vests in the Government of such foreign country upon dissolution;

Provided that the provisions of sub-clauses (iii) and (iv) shall not apply to any payment made to creditors or depositors for loan

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taken or borrowing for the purposes other than for making investment in India;

(v) it does not participate in the day to day operations of investee but the monitoring mechanism to protect the investment with the investee including the right to appoint directors or executive director shall not be considered as participation in the day to day operations of the investee; and

(vi) it is specified by the Central Government, by notification in the Official Gazette, for this purpose and fulfils conditions specified in such notification;

(c) a pension fund, which--

(i) is created or established under the law of a foreign country including the laws made by any of its political constituents being a province, state or local body, by whatever name called;

(ii) is not liable to tax in such foreign country or if liable to tax, exemption from taxation for all its income has been provided by such foreign country;

(iii) satisfies such other conditions as may be prescribed

(iiia) it does not participate in the day to day operations of investee but the monitoring mechanism to protect the investment with the investee including the right to appoint directors or executive director shall not be considered as participation in day to day operations of the investee; and

(iv) is specified by the Central Government, by notification in the Official Gazette, for this purpose and fulfils conditions specified in such notification;

Explanation 2.--For the purposes of this clause,--

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(i) "investee" means a business trust, or a company, or an enterprise, or an entity, or a Category I or Category II Alternative Investment Fund, or an Infrastructure Investment Trust or a domestic company, or an Infrastructure Finance Company or an Infrastructure Debt Fund referred to in item (e) of sub-clause (iii), in which the sovereign wealth fund or the pension fund, as the case may be, has made the investment, directly or indirectly, under the provisions of this clause;

(ii) "loan and borrowing" means--

(a) any loan taken or borrowing by a sovereign wealth fund from, or any deposit or investment made in a sovereign wealth fund by, any person other than the Government of the country in which the sovereign wealth fund is set up;

(b) any loan taken or borrowing by a pension fund from or any deposit or investment made in a pension fund by, any person but shall not include the deposit or investment which represents statutory obligations and defined contributions of one or more funds or plans established for providing retirement, social security, employment, disability, death benefits or any similar compensation to the participants or beneficiaries of such funds or plans, as the case may be.

Explanation 3.--For the purposes of this clause, the Central Government may prescribe that the method of calculation of "fifty per cent." referred to in item (c) or "seventy-five per cent." referred to in item (d) or "ninety per cent." referred to in item (e), of sub-clause (iii) shall be such as may be prescribed;

(23FF) any income of the nature of capital gains, arising or received by a non-resident or a specified fund, which is on account of transfer of share of a company resident in India, by

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the resultant fund or a specified fund to the extent attributable to units held by non-resident (not being a permanent establishment of a non-resident in India) in such manner as may be prescribed, and such shares were transferred from the original fund, or from its wholly owned special purpose vehicle, to the resultant fund in relocation, and where capital gains on such shares were not chargeable to tax if that relocation had not taken place.

Explanation.--For the purposes of this clause,--

(a) the expressions "original fund", "relocation" and "resultant fund" shall have the meanings respectively assigned to them in the Explanation to clause (viiac) and clause (viiad) of section 47;

(b) the expression "specified fund" shall have the meaning assigned to it in clause (c) of the Explanation to clause (4D) of section 10;

(23G) [Omitted];

(24) any income chargeable under the heads "Income from house property" and "Income from other sources" of -

(a) a registered union within the meaning of the Trade Unions Act, 1926 (16 of 1926) formed primarily for the purpose of regulating the relations between workmen and employers or between workmen and workmen ;

(b) an association of registered unions referred to in sub-clause (a);

(25) (i) interest on securities which are held by, or are the property of, any provident fund to which the Provident Funds Act, 1925 (19 of 1925), applies, and any capital gains of the fund arising from the sale, exchange or transfer of such securities ;

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(ii) any income received by the trustees on behalf of a recognised provident fund ;

(iii) any income received by the trustees on behalf of an approved superannuation fund ;

(iv) any income received by the trustees on behalf of an approved gratuity fund;

(v) any income received -

(a) by the Board of Trustees constituted under the Coal Mines Provident Fund and Miscellaneous Provisions Act, 1948 (46 of 1948), on behalf of the Deposit-linked Insurance Fund established under section 3G of that Act ; or

(b) by the Board of Trustees constituted under the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952), on behalf of the Deposit-linked Insurance Fund established under section 6C of that Act ;

(25A) any income of the Employees' State Insurance Fund set-up under the provisions of the Employees' State Insurance Act, 1948 (34 of 1948);

(26) in the case of a member of a Scheduled Tribe as defined in clause (25) of Article 366 of the Constitution, residing in any area specified in Part I or Part II of the Table appended to paragraph 20 of the Sixth Schedule to the Constitution or in the 353[States of Arunachal Pradesh, Manipur, Mizoram, Nagaland and Tripura] or in the areas covered by Notification No. TAD/R/35/50/109, dated the 23rd February, 1951, issued by the Governor of Assam under the proviso to sub-paragraph (3) of the said paragraph 20 as it stood immediately before the commencement of the North-Eastern Areas (Reorganisation) Act,

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1971 (18 of 1971), or in the Ladakh region of the State of Jammu and Kashmir, any income which accrues or arises to him, -

(a) from any source in the areas or States aforesaid, or

(b) by way of dividend or interest on securities ;

(26AA) [Omitted];

(26AAA) in case of an individual, being a Sikkimese, any income which accrues or arises to him--

(a) from any source in the State of Sikkim; or

(b) by way of dividend or interest on securities.

Explanation.--For the purposes of this clause "Sikkimese" shall mean--

(i) an individual, whose name is recorded in the register maintained under the Sikkim Subjects Regulation, 1961 read with the Sikkim Subject Rules, 1961 (hereinafter referred to as the "Register of Sikkim Subjects"), immediately before the 26th day of April, 1975; or

(ii) an individual, whose name is included in the Register of Sikkim Subjects by virtue of the Government of India Order No. 26030/36/90-I.C.I., dated the 7th August, 1990 and Order of even number dated the 8th April, 1991; or

(iii) any other individual, whose name does not appear in the Register of Sikkim Subjects, but it is established beyond doubt that the name of such individual's father or husband or paternal grand-father or brother from the same father has been recorded in that register; or

(iv) any other individual, whose name does not appear in the Register of Sikkim Subjects but it is established that such

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individual was domiciled in Sikkim on or before the 26th day of April, 1975; or

(v) any other individual, who was not domiciled in Sikkim on or before the 26th day of April, 1975, but it is established beyond doubt that such individual's father or husband or paternal grandfather or brother from the same father was domiciled in Sikkim on or before the 26th day of April, 1975;

(26AAB) any income of an agricultural produce market committee or board constituted under any law for the time being in force for the purpose of regulating the marketing of agricultural produce;

(26B) any income of a corporation established by a Central, State or Provincial Act or of any other body, institution or association (being a body, institution or association wholly financed by Government) where such corporation or other body or institution or association has been established or formed for promoting the interests of the members of the Scheduled Castes or the Scheduled Tribes or backward classes or of any two or all of them.

Explanation: For the purposes of this clause, -

(a) "Scheduled Castes" and "Scheduled Tribes" shall have the meanings respectively assigned to them in clauses (24) and (25) of Article 366 of the Constitution;

(b) "backward classes" means such classes of citizens, other than the Scheduled Castes and the Scheduled Tribes, as may be notified-

(i) by the Central Government ; or

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(ii) by any State Government, as the case may be, from time to time ;

(26BB) any income of a corporation established by the Central Government or any State Government for promoting the interests of the members of a minority community.

Explanation: For the purposes of this clause, "minority community" means a community notified as such by the Central Government in the Official Gazette in this behalf;

(26BBB) any income of a corporation established by a Central, State or Provincial Act for the welfare and economic upliftment of ex-servicemen being the citizens of India.

Explanation : For the purposes of this clause, "ex-serviceman" means a person who has served in any rank, whether as combatant or non-combatant, in the armed forces of the Union or armed forces of the Indian States before the commencement of the Constitution (but excluding the Assam Rifles, Defence Security Corps, General Reserve Engineering Force, Lok Sahayak Sena, Jammu and Kashmir Militia and Territorial Army) for a continuous period of not less than six months after attestation and has been released, otherwise than by way of dismissal or discharge on account of misconduct or inefficiency, and in the case of a deceased or incapacitated ex-serviceman includes his wife, children, father, mother, minor brother, widowed daughter and widowed sister, wholly dependant upon such ex-serviceman immediately before his death or incapacitation ;

(27) any income of a co-operative society formed for promoting the interests of the members of either the Scheduled Castes or Scheduled Tribes or both referred to in clause (26B) :

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Provided that the membership of the co-operative society consists of only other co-operative societies formed for similar purposes and the finances of the society are provided by the Government and such other societies;

(28) [Omitted];

(29) [Omitted];

(29A) any income accruing or arising to -

(a) the Coffee Board constituted under section 4 of the Coffee Act, 1942 (7 of 1942) in any previous year relevant to any assessment year commencing on or after the 1st day of April, 1962 or the previous year in which such Board was constituted, whichever is later;

(b) the Rubber Board constituted under sub-section (1) of section 4 of the Rubber Board Act, 1947 (24 of 1947) in any previous year relevant to any assessment year commencing on or after the 1st day of April, 1962 or the previous year in which such Board was constituted, whichever is later ;

(c) the Tea Board established under section 4 of the Tea Act, 1953 (29 of 1953) in any previous year relevant to any assessment year commencing on or after the 1st day of April, 1962 or the previous year in which such Board was constituted, whichever is later ;

(d) the Tobacco Board constituted under the Tobacco Board Act, 1975 (4 of 1975) in any previous year relevant to any assessment year commencing on or after the 1st day of April, 1975 or the previous year in which such Board was constituted, whichever is later ;

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(e) the Marine Products Export Development Authority established under section 4 of the Marine Products Export Development Authority Act, 1972 (13 of 1972) in any previous year relevant to any assessment year commencing on or after the 1st day of April, 1972 or the previous year in which such Authority was constituted, whichever is later ;

(f) the Agricultural and Processed Food Products Export Development Authority established under section 4 of the Agricultural and Processed Food Products Export Development Act, 1985 (2 of 1986) in any previous year relevant to any assessment year commencing on or after the 1st day of April, 1985 or the previous year in which such Authority was constituted, whichever is later;

(g) the Spices Board constituted under sub-section (1) of section 3 of the Spices Board Act, 1986 (10 of 1986) in any previous year relevant to any assessment year commencing on or after the 1st day of April, 1986 or the previous year in which such Board was constituted, whichever is later ;

(h) the Coir Board established under Section 4 of the Coir Industry Act, 1953 (45 of 1953);

(30) 153 in the case of an assessee who carries on the business of growing and manufacturing tea in India, the amount of any subsidy received from or through the Tea Board under any such scheme for replantation or replacement of tea bushes or for rejuvenation or consolidation of areas used for cultivation of tea as the Central Government may, by notification in the Official Gazette, specify:

Provided that the assessee furnishes to the Assessing Officer, along with his return of income for the assessment year

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concerned or within such further time as the Assessing Officer may allow, a certificate from the Tea Board as to the amount of such subsidy paid to the assessee during the previous year.

Explanation : In this clause, "Tea Board" means the Tea Board established under section 4 of the Tea Act, 1953 (29 of 1953);

(31) in the case of an assessee who carries on the business of growing and manufacturing rubber, coffee, cardamom or such other commodity in India, as the Central Government may, by notification in the Official Gazette, specify in this behalf, the amount of any subsidy received from or through the concerned Board under any such scheme for replantation or replacement of rubber plants, coffee plants, cardamom plants or plants for the growing of such other commodity or for rejuvenation or consolidation of areas used for cultivation of rubber, coffee, cardamom or such other commodity as the Central Government may, by notification in the Official Gazette, specify :

Provided that the assessee furnishes to the Assessing Officer, along with his return of income for the assessment year concerned or within such further time as the Assessing Officer may allow, a certificate from the concerned Board, as to the amount of such subsidy paid to the assessee during the previous year.

Explanation : In this clause, "concerned Board" means, -

(i) in relation to rubber, the Rubber Board constituted under section 4 of the Rubber Act, 1947 (24 of 1947),

(ii) in relation to coffee, the Coffee Board constituted under section 4 of the Coffee Act, 1942 (7 of 1942),

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(iii) in relation to cardamom, the Spices Board constituted under section 3 of the Spices Board Act, 1986 (10 of 1986),

(iv) in relation to any other commodity specified under this clause, any Board or other authority established under any law for the time being in force which the Central Government may, by notification in the Official Gazette, specify in this behalf ;

(32) in the case of an assessee referred to in sub-section (1A) of section 64, any income includible in his total income under that sub-section, to the extent such income does not exceed one thousand five hundred rupees in respect of each minor child whose income is so includible;

(33) any income arising from the transfer of a capital asset, being a unit of the Unit Scheme, 1964 referred to in Schedule I to the Unit Trust of India (Transfer of Undertaking and Repeal) Act, 2002 (58 of 2002) and where the transfer of such asset takes place on or after the 1st day of April, 2002 ;

(34) any income by way of dividends referred to in section 115-O;

Provided that nothing in this clause shall apply to any income by way of dividend chargeable to tax in accordance with the provisions of section 115BBDA;

Provided further that nothing contained in this clause shall apply to any income by way of dividend received on or after the 1st day of April, 2020 other than the dividend on which tax under section 115-O and section 115BBDA, wherever applicable, has been paid;

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(34A) any income arising to an assessee, being a shareholder, on account of buy back of shares by the company as referred to in section 115QA;

Provided that this clause shall not apply with respect to any buy back of shares by a company on or after the 1st day of October, 2024.

(34B) any income of a Unit of any International Financial Services Centre, primarily engaged in the business of leasing of an aircraft or a ship, by way of dividends from a company being a Unit of any International Financial Services Centre primarily engaged in the business of leasing of an aircraft or a ship.

Explanation.-For the purposes of this clause,--

(a) "aircraft" means an aircraft or a helicopter, or an engine of an aircraft or a helicopter, or any part thereof;

(b) "International Financial Services Centre" shall have the same meaning as assigned to it in clause (q) of section 2 of the Special Economic Zones Act, 2005 (28 of 2005);

(c) "ship" means a ship or an ocean vessel, engine of a ship or ocean vessel, or any part thereof;

(35) any income by way of,-

(a) income received in respect of the units of a Mutual Fund specified under clause (23D) ; or

(b) income received in respect of units from the Administrator of the specified undertaking ; or

(c) income received in respect of units from the specified company:

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Provided that this clause shall not apply to any income arising from transfer of units of the Administrator of the specified undertaking or of the specified company or of a mutual fund, as the case may be:

Explanation: For the purposes of this clause,-

(a) "Administrator" means the Administrator as referred to in clause (a) of section 2 of the Unit Trust of India (Transfer of Undertaking and Repeal) Act, 2002 (58 of 2002) ;

(b) "specified company" means a company as referred to in clause (h) of section 2 of the Unit Trust of India (Transfer of Undertaking and Repeal) Act, 2002 (58 of 2002) ;

Provided further that nothing contained in this clause shall apply to any income in respect of units received on or after the 1st day of April, 2020;

(35A) any income by way of distributed income referred to in section 115TA received from a securitisation trust by any person being an investor of the said trust.

Provided that nothing contained in this clause shall apply to any income by way of distributed income referred to in the said section, received on or after the 1st day of June, 2016.

Explanation.--For the purposes of this clause, the expressions "investor" and "securitisation trust" shall have the meanings respectively assigned to them in the Explanation below section 115TCA;

(36) any income arising from the transfer of a long-term capital asset, being an eligible equity share in a company purchased on or after the 1st day of March, 2003 and before the 1st day of March, 2004 and held for a period of twelve months or more.

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Explanation: For the purposes of this clause, "eligible equity share" means,-

(i) any equity share in a company being a constituent of BSE-500 Index of the Stock Exchange, Mumbai as on the 1st day of March, 2003 and the transactions of purchase and sale of such equity share are entered into on a recognised stock exchange in India;

(ii) any equity share in a company allotted through a public issue on or after the 1st day of March, 2003 and listed in a recognised stock exchange in India before the 1st day of March, 2004 and the transaction of sale of such share is entered into on a recognised stock exchange in India ;

(37) in the case of an assessee, being an individual or a Hindu undivided family, any income chargeable under the head "Capital gains" arising from the transfer of agricultural land, where -

(i) such land is situate in any area referred to in item (a) or item (b) of sub-clause (iii) of clause (14) of section 2 ;

(ii) such land, during the period of two years immediately preceding the date of transfer, was being used for agricultural purposes by such Hindu undivided family or individual or a parent of his ;

(iii) such transfer is by way of compulsory acquisition under any law, or a transfer the consideration for which is determined or approved by the Central Government or the Reserve Bank of India ;

(iv) such income has arisen from the compensation or consideration for such transfer received by such assessee on or after the 1st day of April, 2004.

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Explanation: For the purposes of this clause, the expression "compensation or consideration" includes the compensation or consideration enhanced or further enhanced by any court, tribunal or other authority;

(37A) any income chargeable under the head "Capital gains" in respect of transfer of a specified capital asset arising to an assessee, being an individual or a Hindu undivided family, who was the owner of such specified capital asset as on the 2nd day of June, 2014 and transfers that specified capital asset under the Land Pooling Scheme (herein referred to as "the scheme") covered under the Andhra Pradesh Capital City Land Pooling Scheme (Formulation and Implementation) Rules, 2015 made under the provisions of the Andhra Pradesh Capital Region Development Authority Act, 2014 (Andhra Pradesh Act 11 of 2014) and the rules, regulations and Schemes made under the said Act.

Explanation.--For the purposes of this clause, "specified capital asset" means,--

(a) the land or building or both owned by the assessee as on the 2nd day of June, 2014 and which has been transferred under the scheme; or

(b) the land pooling ownership certificate issued under the scheme to the assessee in respect of land or building or both referred to in clause (a); or

(c) the reconstituted plot or land, as the case may be, received by the assessee in lieu of land or building or both referred to in clause (a) in accordance with the scheme, if such plot or land, as the case may be, so received is transferred within two years from

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the end of the financial year in which the possession of such plot or land was handed over to him;

(38) any income arising from the transfer of a long-term capital asset, being an equity share in a company or a unit of an equity oriented fund or a unit of a business trust where -

(a) the transaction of sale of such equity share or unit is entered into on or after the date<sup>162</sup> on which Chapter VII of the Finance (No. 2) Act, 2004 comes into force; and

(b) such transaction is chargeable to securities transaction tax under that Chapter.

Provided that the income by way of long-term capital gain of a company shall be taken into account in computing the book profit and income-tax payable under section 115JB.

Provided also that nothing contained in this clause shall apply to any income arising from the transfer of a long-term capital asset, being an equity share in a company, if the transaction of acquisition, other than the acquisition notified by the Central Government in this behalf, of such equity share is entered into on or after the 1st day of October, 2004 and such transaction is not chargeable to securities transaction tax under Chapter VII of the Finance (No. 2) Act, 2004 (23 of 2004).

Provided also that nothing contained in this clause shall apply to any income arising from the transfer of long-term capital asset, being an equity share in a company or a unit of an equity oriented fund or a unit of a business trust, made on or after the 1st day of April, 2018:

Explanation.--For the purposes of this clause,--

(a) "equity oriented fund" means a fund--

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- (i) where the investible funds are invested by way of equity shares in domestic companies to the extent of more than sixty-five per cent. of the total proceeds of such fund; and
- (ii) which has been set up under a scheme of a Mutual Fund specified under clause (23D):

Provided that the percentage of equity share holding of the fund shall be computed with reference to the annual average of the monthly averages of the opening and closing figures;

- (b) "International Financial Services Centre" shall have the same meaning as assigned to it in clause (q) of Section 2 of the Special Economic Zones Act, 2005 (28 of 2005);
- (c) "recognised stock exchange" shall have the meaning assigned to it in clause (ii) of the Explanation 1 to sub-section (5) of section 43.

(39) any specified income, arising from any international sporting event held in India, to the person or persons notified<sup>166</sup> by the Central Government in the Official Gazette, if such international sporting event-

- (a) is approved by the international body regulating the international sport relating to such event;
- (b) has participation by more than two countries;
- (c) is notified by the Central Government in the Official Gazette for the purposes of this clause.

Explanation: For the purposes of this clause, "the specified income" means the income, of the nature and to the extent, arising from the international sporting event, which the Central Government may notify in this behalf;

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(40) any income of any subsidiary company by way of grant or otherwise received from an Indian company, being its holding company engaged in the business of generation or transmission or distribution of power if receipt of such income is for settlement of dues in connection with reconstruction or revival of an existing business of power generation :

Provided that the provisions of this clause shall apply if reconstruction or revival of any existing business of power generation is by way of transfer of such business to the Indian company notified under sub-clause (a) of clause (v) of sub-section (4) of section 80-IA;

(42) any specified income arising to a body or authority which -

(a) has been established or constituted or appointed under a treaty or an agreement entered into by the Central Government with two or more countries or a convention signed by the Central Government;

(b) is established or constituted or appointed not for the purposes of profit;

(c) is notified by the Central Government in the Official Gazette for the purposes of this clause.

Explanation: For the purposes of this clause, "specified income" means the income, of the nature and to the extent, arising to the body or authority referred to in this clause, which the Central Government may notify in this behalf;

(43) any amount received by an individual as a loan, either in lump sum or in installment, in a transaction of reverse mortgage referred to in clause (xvi) of section 47.

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(44) any income received by any person for, or on behalf of, the New Pension System Trust established on the 27th day of February, 2008 under the provisions of the Indian Trusts Act, 1882 (2 of 1982).

(46) any specified income arising to a body or authority or Board or Trust or Commission 400[other than those covered under clause (46A), or a class thereof] which--

(a) has been established or constituted by or under a Central, State or Provincial Act, or constituted by the Central Government or a State Government, with the object of regulating or administering any activity for the benefit of the general public;

(b) is not engaged in any commercial activity; and

(c) is notified by the Central Government in the Official Gazette for the purposes of this clause.

Explanation.-- For the purposes of this clause, "specified income" means the income, of the nature and to the extent arising to a body or authority or Board or Trust or Commission 400[other than those covered under clause (46A), or a class thereof referred to in this clause, which the Central Government may, by notification in the Official Gazette, specify in this behalf;

(46A) any income arising to a body or authority or Board or Trust or Commission, not being a company, which --

(a) has been established or constituted by or under a Central Act or State Act with one or more of the following purposes, namely:--

(i) dealing with and satisfying the need for housing accommodation;

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(ii) planning, development or improvement of cities, towns and villages;

(iii) regulating, or regulating and developing, any activity for the benefit of the general public; or

(iv) regulating any matter, for the benefit of the general public, arising out of the object for which it has been created; and

(b) is notified by the Central Government in the Official Gazette for the purposes of this clause;

(46B) any income accruing or arising to,--

(i) National Credit Guarantee Trustee Company Limited, being a company established and wholly financed by the Central Government for the purposes of operating credit guarantee funds established and wholly financed by the Central Government; or

(ii) a credit guarantee fund established and wholly financed by the Central Government and managed by the National Credit Guarantee Trustee Company Limited; or

(iii) Credit Guarantee Fund Trust for Micro and Small Enterprises, being a trust created by the Government of India and the Small Industries Development Bank of India established under sub-section (1) of section 3 of the Small Industries Development Bank of India Act, 1989(39 of 1989);

(47) any income of an infrastructure debt fund, set up in accordance with the guidelines as may be prescribed, which is notified by the Central Government in the Official Gazette for the purposes of this clause.

(48) any income received in India in Indian currency by a foreign company on account of sale of crude oil, any other goods or

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rendering of services, as may be notified by the Central Government in this behalf, to any person] in India:

Provided that--

(i) receipt of such income in India by the foreign company is pursuant to an agreement or an arrangement entered into by the Central Government or approved by the Central Government;

(ii) having regard to the national interest, the foreign company and the agreement or arrangement are notified by the Central Government in this behalf; and

(iii) the foreign company is not engaged in any activity, other than receipt of such income, in India.

(48A) any income accruing or arising to a foreign company on account of storage of crude oil in a facility in India and sale of crude oil therefrom to any person resident in India:

Provided that--

(i) the storage and sale by the foreign company is pursuant to an agreement or an arrangement entered into by the Central Government or approved by the Central Government; and

(ii) having regard to the national interest, the foreign company and the agreement or arrangement are notified by the Central Government in this behalf;

(48B) any income accruing or arising to a foreign company on account of sale of leftover stock of crude oil, if any, from the facility in India after the expiry of the agreement or the arrangement referred to in clause (48A) or on termination of the said agreement or the arrangement, in accordance with the terms

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mentioned therein, as the case may be, subject to such conditions as may be notified by the Central Government in this behalf;

(48C) any income accruing or arising to the Indian Strategic Petroleum Reserves Limited, being a wholly owned subsidiary of the Oil Industry Development Board under the Ministry of Petroleum and Natural Gas, as a result of arrangement for replenishment of crude oil stored in its storage facility in pursuance of directions of the Central Government in this behalf:

Provided that nothing contained in this clause shall apply to an arrangement, if the crude oil is not replenished in the storage facility within three years from the end of the financial year in which the crude oil was removed from the storage facility for the first time;

(48D) any income accruing or arising to an institution established for financing the infrastructure and development, set up under an Act of Parliament and notified by the Central Government for the purposes of this clause, for a period of ten consecutive assessment years beginning from the assessment year relevant to the previous year in which such institution is set up;

(48E) any income accruing or arising to a developmental financing institution, licensed by the Reserve Bank of India under an Act of the Parliament referred to in clause (48D) and notified by the Central Government for the purposes of this clause, for a period of five consecutive assessment years beginning from the assessment year relevant to the previous year in which the developmental financing institution is set up:

Provided that the Central Government may, by issuing notification under this clause, extend the period of exemption under this clause for a further period, not exceeding five more

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consecutive assessment years, subject to fulfilment of such conditions as may be specified in the said notification;

(50) any income arising from any--

(i) specified service provided on or after the date on which the provisions of Chapter VIII of the Finance Act, 2016 (28 of 2016) comes into force; or

(ii) e-commerce supply or services made or provided or facilitated on or after the 1st day of April, 2020 but before the 1st day of August, 2024, and chargeable to equalisation levy under that Chapter.

Provided that the provisions of this clause shall not apply to any income of the previous year relevant to the assessment year beginning on or after the 1st day of April, 2026.

Explanation 1.--For the removal of doubts it is hereby clarified that the income referred to in this clause shall not include and shall be deemed never to have been included any income which is chargeable to tax as royalty or fees for technical services in India under this Act read with the agreement notified by the Central Government under section 90 or section 90A.

Explanation 2.--For the purposes of this clause,--

(i) "e-commerce supply or services" shall have the meaning assigned to it in clause (cb) of section 164 of the Finance Act, 2016 (28 of 2016);

(ii) "specified service" shall have the meaning assigned to it in clause (i) of section 164 of the Finance Act, 2016 (28 of 2016).

**10A. Special provision in respect of newly established under-takings in free trade zone, etc**

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(1) Subject to the provisions of this section, a deduction of such profits and gains as are derived by an undertaking from the export of articles or things or computer software for a period of ten consecutive assessment years beginning with the assessment year relevant to the previous year in which the undertaking begins to manufacture or produce such articles or things or computer software, as the case may be, shall be allowed from the total income of the assessee :

Provided that where in computing the total income of the undertaking for any assessment year, its profits and gains had not been included by application of the provisions of this section as it stood immediately before its substitution by the Finance Act, 2000, the undertaking shall be entitled to deduction referred to in this sub-section only for the unexpired period of the aforesaid ten consecutive assessment years:

Provided further that where an undertaking initially located in any free trade zone or export processing zone is subsequently located in a special economic zone by reason of conversion of such free trade zone or export processing zone into a special economic zone, the period of ten consecutive assessment years referred to in this sub-section shall be reckoned from the assessment year relevant to the previous year in which the undertaking began to manufacture or produce such articles or things or computer software in such free trade zone or export processing zone :

[Third proviso omitted]

Provided also that for the assessment year beginning on the 1st day of April, 2003, the deduction under this sub-section shall be ninety per cent of the profits and gains derived by an undertaking from the export of such articles or things or computer software:

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Provided also that no deduction under this section shall be allowed to any undertaking for the assessment year beginning on the 1st day of April, 2012 and subsequent years

(1A) Notwithstanding anything contained in sub-section (1), the deduction, in computing the total income of an undertaking, which begins to manufacture or produce articles or things or computer software during the previous year relevant to any assessment year commencing on or after the 1st day of April, 2003, in any special economic zone, shall be,-

(i) hundred per cent of profits and gains derived from the export of such articles or things or computer software for a period of five consecutive assessment years beginning with the assessment year relevant to the previous year in which the undertaking begins to manufacture or produce such articles or things or computer software, as the case may be, and thereafter, fifty per cent of such profits and gains for further two consecutive assessment years, and thereafter;

(ii) for the next three consecutive assessment years, so much of the amount not exceeding fifty per cent of the profit as is debited to the profit and loss account of the previous year in respect of which the deduction is to be allowed and credited to a reserve account (to be called the “Special Economic Zone Re-investment Allowance Reserve Account”) to be created and utilised for the purposes of the business of the assessee in the manner laid down in sub-section (1B):

Provided that no deduction under this section shall be allowed to an assessee who does not furnish a return of his income on or before the due date specified under sub-section (1) of section 139.

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(1B) The deduction under clause (ii) of sub-section (1A) shall be allowed only if the following conditions are fulfilled, namely,—

(a) the amount credited to the Special Economic Zone Re-investment Allowance Reserve Account is to be utilised –

(i) for the purposes of acquiring new machinery or plant which is first put to use before the expiry of a period of three years next following the previous year in which the reserve was created ; and

(ii) until the acquisition of new machinery or plant as aforesaid, for the purposes of the business of the undertaking other than for distribution by way of dividends or profits or for remittance outside India as profits or for the creation of any asset outside India ;

(b) the particulars, as may be prescribed 8in this behalf, have been furnished by the assessee in respect of new machinery or plant along with the return of income for the assessment year relevant to the previous year in which such plant or machinery was first put to use.

(1C) Where any amount credited to the Special Economic Zone Re-investment Allowance Reserve Account under clause (ii) of sub-section (1A),—

(a) has been utilised for any purpose other than those referred to in subsection (1B), the amount so utilised ; or

(b) has not been utilised before the expiry of the period specified in sub-clause (i) of clause (a) of sub-section (1B), the amount not so utilised, shall be deemed to be the profits,-

(i) in a case referred to in clause (a), in the year in which the amount was so utilised; or

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(ii) in a case referred to in clause (b), in the year immediately following the period of three years specified in sub-clause (i) of clause (a) of sub-section (1B), and shall be charged to tax accordingly.

(2) This section applies to any undertaking which fulfils all the following conditions, namely:

(i) it has begun or begins to manufacture or produce articles or things or computer software during the previous year relevant to the assessment year –

(a) commencing on or after the 1st day of April, 1981, in any free trade zone ; or

(b) commencing on or after the 1st day of April, 1994, in any electronic hardware technology park or, as the case may be, software technology park ;

(c) commencing on or after the 1st day of April, 2001 in any special economic zone;

(ii) it is not formed by the splitting up, or the reconstruction, of a business already in existence :

Provided that this condition shall not apply in respect of any undertaking which is formed as a result of the re-establishment, reconstruction or revival by the assessee of the business of any such undertaking as is referred to in section 33B, in the circumstances and within the period specified in that section ;

(iii) it is not formed by the transfer to a new business of machinery or plant previously used for any purpose.

Explanation: The provisions of Explanation 1 and Explanation 2 to sub-section (2) of section 80-I shall apply for the purposes of

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clause (iii) of this sub-section as they apply for the purposes of clause (ii) of that sub-section.

(3) This section applies to the undertaking, if the sale proceeds of articles or things or computer software exported out of India are received in, or brought into, India by the assessee in convertible foreign exchange, within a period of six months from the end of the previous year or, within such further period as the competent authority may allow in this behalf.

Explanation 1: For the purposes of this sub-section, the expression “competent authority” means the Reserve Bank of India or such other authority as is authorised under any law for the time being in force for regulating payments and dealings in foreign exchange.

Explanation 2: The sale proceeds referred to in this sub-section shall be deemed to have been received in India where such sale proceeds are credited to a separate account maintained for the purpose by the assessee with any bank outside India with the approval of the Reserve Bank of India.

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

(5) The deduction under this section shall not be admissible for any assessment year beginning on or after the 1st day of April, 2000, unless the assessee furnishes in the prescribed form, the report of an accountant, as defined in the Explanation below sub-section (2) of section 288 before the specified date referred to in

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section 44AB, certifying that the deduction has been correctly claimed in accordance with the provisions of this section.

(6) Notwithstanding anything contained in any other provision of this Act, in computing the total income of the assessee of the previous year relevant to the assessment year immediately succeeding the last of the relevant assessment years, or of any previous year, relevant to any subsequent assessment year, –

(i) section 32, section 32A, section 33, section 35 and clause (ix) of subsection (1) of section 36 shall apply as if every allowance or deduction referred to therein and relating to or allowable for any of the relevant assessment years ending before the 1st day of April, 2001, in relation to any building, machinery, plant or furniture used for the purposes of the business of the undertaking in the previous year relevant to such assessment year or any expenditure incurred for the purposes of such business in such previous year had been given full effect to for that assessment year itself and accordingly sub-section (2) of section 32, clause (ii) of sub-section (3) of section 32A, clause (ii) of sub-section (2) of section 33, sub-section (4) of section 35 or the second proviso to clause (ix) of sub-section (1) of section 36, as the case may be, shall not apply in relation to any such allowance or deduction;

(ii) no loss referred to in sub-section (1) of section 72 or sub-section (1) or sub-section (3) of section 74 in so far as such loss relates to the business of the undertaking, shall be carried forward or set-off where such loss relates to any of the relevant assessment years ending before the 1st day of April, 2001;

(iii) no deduction shall be allowed under section 80HH or section 80HHA or section 80-I or section 80-IA or section 80-IB in relation to the profits and gains of the undertaking ; and

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(iv) in computing the depreciation allowance under section 32, the written down value of any asset used for the purposes of the business of the undertaking shall be computed as if the assessee had claimed and been actually allowed the deduction in respect of depreciation for each of the relevant assessment year.

(7) The provisions of sub-section (8) and sub-section (10) of section 80-IA shall, so far as may be, apply in relation to the undertaking referred to in this section as they apply for the purposes of the undertaking referred to in section 80-IA.

(7A) Where any undertaking of an Indian company which is entitled to the deduction under this section is transferred, before the expiry of the period specified in this section, to another Indian company in a scheme of amalgamation or demerger,—

(a) no deduction shall be admissible under this section to the amalgamating or the demerged company for the previous year in which the amalgamation or the demerger takes place; and

(b) the provisions of this section shall, as far as may be, apply to the amalgamated or the resulting company as they would have applied to the amalgamating or the demerged company if the amalgamation or demerger had not taken place.

(7B) The provisions of this section shall not apply to any undertaking, being a Unit referred to in clause (zc) of section 2 of the Special Economic Zones Act, 2005, which has begun or begins to manufacture or produce articles or things or computer software during the previous year relevant to the assessment year commencing on or after the 1st day of April, 2006 in any Special Economic Zone.

(8) Notwithstanding anything contained in the foregoing provisions of this section, where the assessee, before the due date

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for furnishing the return of income under sub-section (1) of section 139, furnishes to the Assessing Officer a declaration in writing that the provisions of this section may not be made applicable to him, the provisions of this section shall not apply to him for any of the relevant assessment years.

(9) [Omitted];

(9A) [Omitted];

Explanation 2 : For the purposes of this section, –

(i) “computer software” means, –

(a) any computer programme recorded on any disc, tape, perforated media or other information storage device ; or

(b) any customised electronic data or any product or service of similar nature, as may be notified by the Board, which is transmitted or exported from India to any place outside India by any means ;

(ii) “convertible foreign exchange” means foreign exchange which is for the time being treated by the Reserve Bank of India as convertible foreign exchange for the purposes of the Foreign Exchange Management Act, 1999 (42 of 1999), and any rules made there under or any other corresponding law for the time being in force ;

(iii) “electronic hardware technology park” means any park set-up in accordance with the Electronic Hardware Technology Park (EHTP) Scheme notified by the Government of India in the Ministry of Commerce and Industry ;

(iv) “export turnover” means the consideration in respect of export by the undertaking] of articles or things or computer

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software received in, or brought into India by the assessee in convertible foreign exchange in accordance with sub-section (3), but does not include freight, telecommunication charges or insurance attributable to the delivery of the articles or things or computer software outside India or expenses, if any, incurred in foreign exchange in providing the technical services outside India ;

(v) “free trade zone” means the Kandla Free Trade Zone and the Santacruz Electronics Export Processing Zone and includes any other free trade zone which the Central Government may, by notification in the Official Gazette, specify for the purposes of this section ;

(vi) “relevant assessment year” means any assessment year falling within a period of ten consecutive assessment years referred to in this section;

(vii) “software technology park” means any park set-up in accordance with the Software Technology Park Scheme notified by the Government of India in the Ministry of Commerce and Industry ;

(viii) “special economic zone” means a zone which the Central Government may, by notification in the Official Gazette, specify as a special economic zone for the purposes of this section.

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

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Explanation 4: For the purposes of this section, “manufacture or produce” shall include the cutting and polishing of precious and semi-precious stones.

**10AA. Special provisions in respect of newly established Units in Special Economic Zones**

1) Subject to the provisions of this section, in computing the total income of an assessee, being an entrepreneur as referred to in clause (j) of section (2) of the Special Economic Zones Act, 2005, from his Unit, who begins to manufacture or produce articles or things or provide any services during the previous year relevant to any assessment year commencing on or after the 1st day of April, 2006, but before the 1st day of April, 2021, the following deduction shall be allowed-

(i) hundred per cent of profits and gains derived from the export, of such articles or things or from services for a period of five consecutive assessment years beginning with the assessment year relevant to the previous year in which the Unit begins to manufacture or produce such articles or things or provide services, as the case may be, and fifty per cent of such profits and gains for further five assessment years and thereafter;

(ii) for the next five consecutive assessment years, so much of the amount not exceeding fifty per cent of the profit as is debited to the profit and loss account of the previous year in respect of which the deduction is to be allowed and credited to a reserve account (to be called the "Special Economic Zone Re-investment Reserve Account") to be created and utilised for the purposes of the business of the assessee in the manner laid down in sub-section (2).

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Provided that no such deduction shall be allowed to an assessee who does not furnish a return of income on or before the due date specified under sub-section (1) of section 139.

Explanation.-- For the removal of doubts, it is hereby declared that the amount of deduction under this section shall be allowed from the total income of the assessee computed in accordance with the provisions of this Act, before giving effect to the provisions of this section and the deduction under this section shall not exceed such total income of the assessee.

(2) The deduction under clause (ii) of sub-section (1) shall be allowed only if the following conditions are fulfilled, namely:-

(a) the amount credited to the Special Economic Zone Re-investment Reserve Account is to be utilised -

(i) for the purposes of acquiring machinery or plant which is first put to use before the expiry of a period of three years following the previous year in which the reserve was created; and

(ii) until the acquisition of the machinery or plant as aforesaid, for the purposes of the business of the undertaking other than for distribution by way of dividends or profits or for remittance outside India as profits or for the creation of any asset outside India;

(b) the particulars, as may be specified<sup>2</sup> by the Central Board of Direct Taxes in this behalf, under clause (b) of sub-section (1B) of section 10A have been furnished by the assessee in respect of machinery or plant along with the return of income for the assessment year relevant to the previous year in which such plant or machinery was first put to use.

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(3) Where any amount credited to the Special Economic Zone Re-investment Reserve Account under clause (ii) of sub-section (1), -

(a) has been utilised for any purpose other than those referred to in subsection (2), the amount so utilised; or

(b) has not been utilised before the expiry of the period specified in sub-clause (i) of clause (a) of sub-section (2), the amount not so utilised, shall be deemed to be the profits, -

(i) in a case referred to in clause (a), in the year in which the amount was so utilised; or (ii) in a case referred to in clause (b), in the year immediately following the period of three years specified in sub-clause (i) of clause (a) of sub-section (2), and shall be charged to tax accordingly:

Provided that where in computing the total income of the Unit for any assessment year, its profits and gains had not been included by application of the provisions of sub-section (7B) of section 10A, the undertaking, being the Unit shall be entitled to deduction referred to in this sub-section only for the unexpired period of ten consecutive assessment years and thereafter it shall be eligible for deduction from income as provided in clause (ii) of sub-section (1) :

Explanation : For the removal of doubts, it is hereby declared that an undertaking, being the Unit, which had already availed, before the commencement of the Special Economic Zones Act, 2005, the deductions referred to in section 10A for ten consecutive assessment years, such Unit shall not be eligible for deduction from income under this section:

Provided further that where a Unit initially located in any free trade zone or export processing zone is subsequently located in a

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Special Economic Zone by reason of conversion of such free trade zone or export processing zone into a Special Economic Zone, the period of ten consecutive assessment years referred to above shall be reckoned from the assessment year relevant to the previous year in which the Unit began to manufacture, or produce or process such articles or things or services in such free trade zone or export processing zone:

Provided also that where a Unit initially located in any free trade zone or export processing zone is subsequently located in a Special Economic Zone by reason of conversion of such free trade zone or export processing zone into a Special Economic Zone and has completed the period of ten consecutive assessment years referred to above, it shall not be eligible for deduction from income as provided in clause (ii) of sub-section (1) with effect from the 1st day of April, 2006.

(4) This section applies to any undertaking, being the Unit, which fulfils all the following conditions, namely:

(i) it has begun or begins to manufacture or produce articles or things or provide services during the previous year relevant to the assessment year commencing on or after the 1st day of April, 2006 in any Special Economic Zone;

(ii) it is not formed by the splitting up, or the reconstruction, of a business already in existence:

Provided that this condition shall not apply in respect of any undertaking, being the Unit, which is formed as a result of the re-establishment, reconstruction or revival by the assessee of the business of any such undertaking as is referred to in section 33B, in the circumstances and within the period specified in that section;

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(iii) it is not formed by the transfer to a new business, of machinery or plant previously used for any purpose.

Explanation: The provisions of Explanations 1 and 2 to sub-section (3) of section 80-IA shall apply for the purposes of clause (iii) of this sub-section as they apply for the purposes of clause (ii) of that sub-section.

(4A) This section applies to a Unit, if the proceeds from sale of goods or provision of services is received in, or brought into, India by the assessee in convertible foreign exchange, within a period of six months from the end of the previous year or, within such further period as the competent authority may allow in this behalf.

Explanation 1.--For the purposes of this sub-section, the expression "competent authority" means the Reserve Bank of India or the authority authorised under any law for the time being in force for regulating payments and dealings in foreign exchange.

Explanation 2.--The sale of goods or provision of services shall be deemed to have been received in India where such export turnover is credited to a separate account maintained for that purpose by the assessee with any bank outside India with the approval of the Reserve Bank of India.

(5) Where any undertaking being the Unit which is entitled to the deduction under this section is transferred, before the expiry of the period specified in this section, to another undertaking, being the Unit in a scheme of amalgamation or demerger, -

(a) no deduction shall be admissible under this section to the amalgamating or the demerged Unit, being the company for the

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previous year in which the amalgamation or the demerger takes place; and

(b) the provisions of this section shall, as they would have applied to the amalgamating or the demerged Unit being the company as if the amalgamation or demerger had not taken place.

(6) Loss referred to in sub-section (1) of section 72 or sub-section (1) or subsection (3) of section 74, in so far as such loss relates to the business of the undertaking, being the Unit shall be allowed to be carried forward or set-off.

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

Provided that the provisions of this sub-section as amended by section 6 of the Finance (No. 2) Act, 2009 (33 of 2009) shall have effect for the assessment year beginning on the 1st day of April, 2006 and subsequent assessment years.

(8) The provisions of sub-sections (5) and (6) of section 10A shall apply to the articles or things or services referred to in sub-section (1) as if -

(a) for the figures, letters and word "1st April, 2001", the figures, letters and word "1st April, 2006" had been substituted;

(b) for the word "undertaking", the words "undertaking, being the Unit" had been substituted.

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(9) The provisions of sub-section (8) and sub-section (10) of section 80-IA shall, so far as may be, apply in relation to the undertaking referred to in this section as they apply for the purposes of the undertaking referred to in section 80-IA.

(10) Where a deduction under this section is claimed and allowed in respect of profits of any of the specified business, referred to in clause (c) of sub-section (8) of section 35AD, for any assessment year, no deduction shall be allowed under the provisions of section 35AD in relation to such specified business for the same or any other assessment year.

Explanation 1: For the purposes of this section, -

(i) "convertible foreign exchange" shall have the meaning assigned to it in clause (ii) of the Explanation 2 to section 10A;

(ia) "export turnover" means the consideration in respect of export by the undertaking, being the Unit of articles or things or services received in, or brought into, India by the assessee in convertible foreign exchange in accordance with the provisions of sub-section (4A), but does not include freight, telecommunication charges or insurance attributable to the delivery of the articles or things outside India or expenses, if any, incurred in foreign exchange in rendering of services (including computer software) outside India;

(ii) "export in relation to the Special Economic Zones" means taking goods or providing services out of India from a Special Economic Zone by land, sea, air, or by any other mode, whether physical or otherwise;

(iii) "manufacture" shall have the same meaning as assigned to it in clause (r) of section 2 of the Special Economic Zones Act, 2005;

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(iv) "relevant assessment year" means any assessment year falling within a period of fifteen consecutive assessment years referred to in this section;

(v) "Special Economic Zone" and "Unit" shall have the same meanings as assigned to them under clause (za) and (zc) of section 2 of the Special Economic Zones Act, 2005.

Explanation 2: For the removal of doubts, it is hereby declared that the profits and gains derived from on site development of computer software (including services for development of software) outside India shall be deemed to be the profits and gains derived from the export of computer software outside India.

**10B. Special provisions in respect of newly established hundred per cent export-oriented undertakings**

(1) Subject to the provisions of this section, a deduction of such profits and gains as are derived by a hundred per cent export-oriented undertaking from the export of articles or things or computer software for a period of ten consecutive assessment years beginning with the assessment year relevant to the previous year in which the undertaking begins to manufacture or produce articles or things or computer software, as the case may be, shall be allowed from the total income of the assessee:

Provided that where in computing the total income of the undertaking for any assessment year, its profits and gains had not been included by application of the provisions of this section as it stood immediately before its substitution by the Finance Act, 2000, the undertaking shall be entitled to the deduction referred to in this sub-section only for the unexpired period of aforesaid ten consecutive assessment years:

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[Second proviso omitted]

Provided further that for the assessment year beginning on the 1st day of April, 2003, the deduction under this sub-section shall be ninety per cent of the profits and gains derived by an undertaking from the export of such articles or things or computer software:

Provided also that no deduction under this section shall be allowed to any undertaking for the assessment year beginning on the 1st day of April, 2012 and subsequent years:

Provided also that no deduction under this section shall be allowed to an assessee who does not furnish a return of his income on or before the due date specified under sub-section (1) of section 139.

(2) This section applies to any undertaking which fulfils all the following conditions, namely:

(i) it manufactures or produces any articles or things or computer software;

(ii) it is not formed by the splitting up, or the reconstruction, of a business already in existence :

Provided that this condition shall not apply in respect of any undertaking which is formed as a result of the re-establishment, reconstruction or revival by the assessee of the business of any such undertaking as is referred to in section 33B, in the circumstances and within the period specified in that section ;

(iii) it is not formed by the transfer to a new business of machinery or plant previously used for any purpose.

Explanation: The provisions of Explanation 1 and Explanation 2 to subsection (2) of section 80-I shall apply for the purposes of


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clause (iii) of this sub-section as they apply for the purposes of clause (ii) of that sub-section.

(3) This section applies to the undertaking, if the sale proceeds of articles or things or computer software exported out of India are received in, or brought into India by the assessee in convertible foreign exchange, within a period of six months from the end of the pervious year or, within such further period as the competent authority may allow in this behalf.

Explanation 1: For the purposes of this sub-section, the expression “competent authority” means the Reserve Bank of India or such other authority as is authorised under any law for the time being in force for regulating payments and dealings in foreign exchange.

Explanation 2: The sale proceeds referred to in this sub-section shall be deemed to have been received in India where such sale proceeds are credited to a separate account maintained for the purpose by the assessee with any bank outside India with the approval of the Reserve Bank of India.

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

(5) The deduction under sub-section (1) shall not be admissible for any assessment year beginning on or after the 1st day of April, 2001, unless the assessee furnishes in the prescribed form<sup>8</sup>, along with the return of income, the report of an accountant, as defined in the Explanation below sub-section (2)

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of section 288, certifying that the deduction has been correctly claimed in accordance with the provisions of this section.

(6) Notwithstanding anything contained in any other provision of this Act, in computing the total income of the assessee of the previous year relevant to the assessment year immediately succeeding the last of the relevant assessment years, or of any previous year, relevant to any subsequent assessment year, –

(i) section 32, section 32A, section 33, section 35 and clause (ix) of subsection (1) of section 36 shall apply as if every allowance or deduction referred to therein and relating to or allowable for any of the relevant assessment years ending before the 1st day of April, 2001, in relation to any building, machinery, plant or furniture used for the purposes of the business of the undertaking in the previous year relevant to such assessment year or any expenditure incurred for the purposes of such business in such previous year had been given full effect to for that assessment year itself and accordingly sub-section (2) of section 32, clause (ii) of sub-section (3) of section 32A, clause (ii) of sub-section (2) of section 33, sub-section (4) of section 35 or the second proviso to clause (ix) of sub-section (1) of section 36, as the case may be, shall not apply in relation to any such allowances or deduction ;

(ii) no loss referred to in sub-section (1) of section 72 or sub-section (1) or sub-section (3) of section 74, in so far as such loss relates to the business of the undertaking, shall be carried forward or set-off where such loss relates to any of the relevant assessment years 9[ending before the 1st day of April, 2001;

(iii) no deduction shall be allowed under section 80HH or section 80HHA or section 80-I or section 80-IA or section 80-IB in relation to the profits and gains of the undertaking ; and

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(iv) in computing the depreciation allowance under section 32, the written down value of any asset used for the purposes of the business of the undertaking shall be computed as if the assessee had claimed and been actually allowed the deduction in respect of depreciation for each of the relevant assessment year.

(7) The provisions of sub-section (8) and sub-section (10) of section 80-IA shall, so far as may be, apply in relation to the undertaking referred to in this section as they apply for the purposes of the undertaking referred to in section 80-IA.

(7A) Where any undertaking of an Indian company which is entitled to the deduction under this section is transferred, before the expiry of the period specified in this section, to another Indian company in a scheme of amalgamation or demerger –

(a) no deduction shall be admissible under this section to the amalgamating or the demerged company for the previous year in which the amalgamation or the demerger takes place; and

(b) the provisions of this section shall, as far as may be, apply to the amalgamated or resulting company as they would have applied to the amalgamating or the demerged company if the amalgamation or demerger had not taken place.

(8) Notwithstanding anything contained in the foregoing provisions of this section, where the assessee, before the due date for furnishing the return of income under sub-section (1) of section 139, furnishes to the Assessing Officer a declaration in writing that the provisions of this section may not be made applicable to him, the provisions of this section shall not apply to him for any of the relevant assessment years.

(9) [Omitted];

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(9A) [Omitted];

[Explanation 1: omitted];

Explanation 2: For the purposes of this section, –

(i) “computer software” means –

(a) any computer programme recorded on any disc, tape, perforated media or other information storage device ; or

(b) any customised electronic data or any product or service of similar nature as may be notified by the Board, which is transmitted or exported from India to any place outside India by any means ;

(ii) “convertible foreign exchange” means foreign exchange which is for the time being treated by the Reserve Bank of India as convertible foreign exchange for the purposes of the Foreign Exchange Management Act, 1999 (42 of 1999), and any rules made there under or any other corresponding law for the time being in force ;

(iii) “export turnover” means the consideration in respect of export by the undertaking] of articles or things or computer software received in, or brought into, India by the assessee in convertible foreign exchange in accordance with sub-section (3), but does not include freight, telecommunication charges or insurance attributable to the delivery of the articles or things or computer software outside India or expenses, if any, incurred in foreign exchange in providing the technical services outside India ;

(iv) “hundred per cent export-oriented undertaking” means an undertaking which has been approved as a hundred per cent export-oriented undertaking by the Board appointed in this behalf

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by the Central Government in exercise of the powers conferred by section 14 of the Industries (Development and Regulation) Act, 1951 (65 of 1951), and the rules made under that Act ;

(v) “relevant assessment years” means any assessment year falling within a period of ten consecutive assessment years, referred to in this section.

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

Explanation 4: For the purposes of this section, “manufacture or produce” shall include the cutting and polishing of precious and semi-precious stones.

**10BA. Special provisions in respect of export of certain articles or things**

(1) Subject to the provisions of this section, a deduction of such profits and gains as are derived by an undertaking from the export out of India of eligible articles or things, shall be allowed from the total income of the assessee:

Provided that where in computing the total income of the undertaking for any assessment year, deduction under section 10A or section 10B has been claimed, the undertaking shall not be entitled to the deduction under this section :

Provided further that no deduction under this section shall be allowed to any undertaking for the assessment year beginning on the 1st day of April, 2010 and subsequent years:

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(2) This section applies to any undertaking which fulfils the following conditions, namely:

(a) it manufactures or produces the eligible articles or things without the use of imported raw materials ;

(b) it is not formed by the splitting up, or the reconstruction, of a business already in existence :

Provided that this condition shall not apply in respect of any undertaking which is formed as a result of the re-establishment, reconstruction or revival by the assessee of the business of any such undertaking as is referred to in section 33B, in the circumstances and within the period specified in that section;

(c) it is not formed by the transfer to a new business of machinery or plant previously used for any purpose.

Explanation: The provisions of Explanation 1 and Explanation 2 to sub-section (2) of section 80-I shall apply for the purposes of this clause as they apply for the purposes of clause (ii) of sub-section (2) of that section;

(d) ninety per cent or more of its sales during the previous year relevant to the assessment year are by way of exports of the eligible articles or things;

(e) it employs twenty or more workers during the previous year in the process of manufacture or production.

(3) This section applies to the undertaking, if the sale proceeds of the eligible articles or things exported out of India are received in or brought into, India by the assessee in convertible foreign exchange, within a period of six months from the end of the previous year or, within such further period as the competent authority may allow in this behalf.

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Explanation: For the purposes of this sub-section, the expression “competent authority” means the Reserve Bank of India or such other authority as is authorised under any law for the time being in force for regulating payments and dealings in foreign exchange.

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

(5) The deduction under sub-section (1) shall not be admissible, unless the assessee furnishes in the prescribed form, along with the return of income, the report of an accountant, as defined in the Explanation below sub-section (2) of section 288, certifying that the deduction has been correctly claimed in accordance with the provisions of this section.

(6) Notwithstanding anything contained in any other provision of this Act, where a deduction is allowed under this section in computing the total income of the assessee, no deduction shall be allowed under any other section in respect of its export profits.

(7) The provisions of sub-section (8) and sub-section (10) of section 80-IA shall, so far as may be, apply in relation to the undertaking referred to in this section as they apply for the purposes of the undertaking referred to in section 80-IA.

Explanation : For the purposes of this section, –

(a) “convertible foreign exchange” means foreign exchange which is for the time being treated by the Reserve Bank of India as convertible foreign exchange for the purposes of the Foreign

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Exchange Management Act, 1999 (42 of 1999), and any rules made there under or any other corresponding law for the time being in force ;

(b) “eligible articles or things” means all hand-made articles or things, which are of artistic value and which requires the use of wood as the main raw material ;

(c) “export turnover” means the consideration in respect of export by the undertaking of eligible articles or things received in, or brought into, India by the assessee in convertible foreign exchange in accordance with sub-section (3), but does not include freight, telecommunication charges or insurance attributable to the delivery of the articles or things outside India;

(d) “export out of India” shall not include any transaction by way of sale or otherwise, in a shop, emporium or any other establishment situate in India, not involving clearance of any customs station as defined in the Customs Act, 1962 (52 of 1962).

### **10BB. Meaning of computer programmes in certain cases**

The profits and gains derived by an undertaking from the production of computer programmes under section 10B, as it stood prior to its substitution by section 7 of the Finance Act, 2000 (10 of 2000), shall be construed as if for the words “computer programmes”, the words “computer programmes or processing or management of electronic data” had been substituted in that section.

### **10C. Special provision in respect of certain industrial undertak-ings in North-Eastern Region**

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(1) Subject to the provisions of this section, any profits and gains derived by an assessee from an industrial undertaking, which has begun or begins to manufacture or produce any article or thing on or after the 1st day of April, 1998 in any Integrated Infrastructure Development Center or Industrial Growth Center located in the North-Eastern Region (hereafter in this section referred to as the industrial undertaking) shall not be included in the total income of the assessee.

(2) This section applies to any industrial undertaking which fulfils all the following conditions, namely:

(i) it is not formed by the splitting up, or the reconstruction of, a business already in existence :

Provided that this condition shall not apply in respect of any industrial undertaking which is formed as a result of the re-establishment, reconstruction or revival by the assessee of the business of any such industrial undertaking as is referred to in section 33B, in the circumstances and within the period specified in that section ;

(ii) it is not formed by the transfer to a new business of machinery or plant previously used for any purpose.

Explanation: The provisions of Explanation 1 and Explanation 2 to sub-section (3) of section 80-IA shall apply for the purposes of clause (ii) of this sub-section as they apply for the purposes of clause (ii) of that sub-section.

(3) The profits and gains referred to in sub-section (1) shall not be included in the total income of the assessee in respect of ten consecutive assessment years beginning with the assessment year relevant to the previous year in which the industrial undertaking begins to manufacture or produce articles or things.

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(4) Notwithstanding anything contained in any other provision of this Act, in computing the total income of the assessee of any previous year relevant to any subsequent assessment year, –

(i) section 32, section 35 and clause (ix) of sub-section (1) of section 36 shall apply as if deduction referred to therein and relating to or allowable for any of the relevant assessment years, in relation to any building, machinery, plant or furniture used for the purposes of the business of the industrial undertaking in the previous year relevant to such assessment year or any expenditure incurred for the purposes of such business in such previous year had been given full effect to for that assessment year itself and, accordingly, sub-section (2) of section 32, sub-section (4) of section 35 or the second proviso to clause (ix) of sub-section (1) of section 36, as the case may be, shall not apply in relation to any such deduction ;

(ii) no loss referred to in sub-section (1) of section 72 or sub-section (1) or sub-section (3) of section 74, in so far as such loss relates to the business of the industrial undertaking, shall be carried forward or set-off where such loss relates to any of the relevant assessment years ;

(iii) no deduction shall be allowed under section 80HH or section 80HHA or section 80-I or section 80-IA or section 80-IB or section 80JJA in relation to the profits and gains of the industrial undertakings ; and

(iv) in computing the depreciation allowance under section 32, the written down value of any asset used for the purposes of the business of the industrial undertaking shall be computed as if the assessee had claimed and been actually allowed the deduction in respect of depreciation for each of the relevant assessment years.

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(5) The provisions of sub-section (8) and sub-section (10) of section 80-IA shall, so far as may be, apply in relation to the industrial undertaking referred to in this section as they apply for the purposes of the industrial undertaking referred to in section 80-IA or section 80-IB, as the case may be.

(6) Notwithstanding anything contained in the foregoing provisions of this section, where the assessee before the due date for furnishing the return of his income under sub-section (1) of section 139, furnishes to the Assessing Officer a declaration in writing that the provisions of this section may not be made applicable to him, the provisions of this section shall not apply to him in any of the relevant assessment years:

Provided that no deduction under this section shall be allowed to any undertaking for the assessment year beginning on the 1st day of April, 2004 and subsequent years:

Explanation: For the purposes of this section, -

(i) “Integrated Infrastructure Development Center” means such centers located in the States of the North-Eastern Region, which the Central Government, may, by notification in the Official Gazette, specify for the purposes of this section ;

(ii) “Industrial Growth Center” means such centers located in the States of the North-Eastern Region, which the Central Government may, by notification in the Official Gazette, specify for the purposes of this section;

(iii) “North-Eastern Region” means the region comprising the States of Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim and Tripura;

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(iv) “relevant assessment years” means the ten consecutive years beginning with the year in which the industrial undertaking begins to manufacture or produce articles or things.

### **11. Income from property held for charitable or religious purposes**

(1) Subject to the provisions of sections 60 to 63, the following income shall not be included in the total income of the previous year of the person in receipt of the income -

(a) income derived from property held under trust wholly for charitable or religious purposes, to the extent to which such income is applied to such purposes in India; and, where any such income is accumulated or set apart for application to such purposes in India, to the extent to which the income so accumulated or set apart is not in excess of fifteen per cent of the income from such property;

(b) income derived from property held under trust in part only for such purposes, the trust having been created before the commencement of this Act, to the extent to which such income is applied to such purposes in India; and, where any such income is finally set apart for application to such purposes in India, to the extent to which the income so set apart is not in excess of fifteen per cent of the income from such property;

(c) income derived from property held under trust-

(i) created on or after the 1st day of April, 1952, for a charitable purpose which tends to promote international welfare in which India is interested, to the extent to which such income is applied to such purposes outside India, and

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(ii) for charitable or religious purposes, created before the 1st day of April, 1952, to the extent to which such income is applied to such purposes outside India :

Provided that the Board, by general or special order, has directed in either case that it shall not be included in the total income of the person in receipt of such income;

(d) income in the form of voluntary contributions made with a specific direction that they shall form part of the corpus of the trust or institution, subject to the condition that such voluntary contributions are invested or deposited in one or more of the forms or modes specified in sub-section (5) maintained specifically for such corpus.

Explanation 1: For the purposes of clauses (a) and (b), -

(1) in computing the fifteen per cent of the income which may be accumulated or set apart, any such voluntary contributions as are referred to in section 12 shall be deemed to be part of the income ;

(2) if, in the previous year, the income applied to charitable or religious purposes in India falls short of eighty-five per cent of the income derived during that year from property held under trust, or, as the case may be, held under trust in part, by any amount -

(i) for the reason that the whole or any part of the income has not been received during that year, or

(ii) for any other reason, then -

(a) in the case referred to in sub-clause (i), so much of the income applied to such purposes in India during the previous

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year in which the income is received or during the previous year immediately following as does not exceed the said amount ; and

(b) in the case referred to in sub-clause (ii), so much of the income applied to such purposes in India during the previous year immediately following the previous year in which the income was derived as does not exceed the said amount,

may, at the option of the person in receipt of the income (such option to be exercised at least two months prior to the due date specified under sub-section (1) of section 139 for furnishing the return of income, in such form and manner as may be prescribed) be deemed to be income applied to such purposes during the previous year in which the income was derived ; and the income so deemed to have been applied shall not be taken into account in calculating the amount of income applied to such purposes, in the case referred to in sub-clause (i), during the previous year in which the income is received or during the previous year immediately following, as the case may be, and, in the case referred to in sub-clause (ii), during the previous year immediately following the previous year in which the income was derived.

Explanation 2.--Any amount credited or paid, out of income referred to in clause (a) or clause (b) read with Explanation 1, to any fund or trust or institution or any university or other educational institution or any hospital or other medical institution referred to in sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via) of clause (23C) of section 10 or other trust or institution registered under section 12AA or section 12AB, as the case may be, being contribution with a specific direction that it shall form part of the corpus, shall not be treated as application of income for charitable or religious purposes.

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Explanation 3.--For the purposes of determining the amount of application under clause (a) or clause (b), the provisions of sub-clause (ia) of clause (a) of section 40 and sub-sections (3) and (3A) of section 40A, shall, mutatis mutandis, apply as they apply in computing the income chargeable under the head "Profits and gains of business or profession".

Explanation 3A.--For the purposes of this subsection, where the property held under a trust or institution includes any temple, mosque, gurdwara, church or other place notified under clause (b) of subsection (2) of section 80G, any sum received by such trust or institution as voluntary contribution for the purpose of renovation or repair of such temple, mosque, gurdwara, church or other place, may, at its option, be treated by such trust or institution as forming part of the corpus of the trust or the institution, subject to the condition that the trust or the institution--

- (a) applies such corpus only for the purpose for which the voluntary contribution was made;
- (b) does not apply such corpus for making contribution or donation to any person;
- (c) maintains such corpus as separately identifiable; and
- (d) invests or deposits such corpus in the forms and modes specified under sub-section (5) of section 11.

Explanation 3B.--For the purposes of Explanation 3A, where any trust or institution has treated any sum received by it as forming part of the corpus, and subsequently any of the conditions specified in clause (a) or clause (b) or clause (c) or clause (d) of the said Explanation is violated, such sum shall be deemed to be

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the income of such trust or institution of the previous year during which the violation takes place.

Explanation 4.--For the purposes of determining the amount of application under clause (a) or clause (b),--

(i) application for charitable or religious purposes from the corpus as referred to in clause (d) of this sub-section, shall not be treated as application of income for charitable or religious purposes:

Provided that the amount not so treated as application, or part thereof, shall be treated as application for charitable or religious purposes in the previous year in which the amount, or part thereof, is invested or deposited back, into one or more of the forms or modes specified in sub-section (5) maintained specifically for such corpus, from the income of that year and to the extent of such investment or deposit:

Provided further that provisions of the first proviso shall apply only if there was no violation of the conditions specified--

(a) in clause (c) of this sub-section;

(b) in Explanations 2, 3 and 5 of this sub-section;

(c) in the Explanation to this section; and

(d) in clause (c) of sub-section (1) of section 13, at the time the application was made from the corpus:

Provided also that the amount invested or deposited back shall not be treated as application for charitable or religious purposes under the first proviso unless such investment or deposit is made within a period of five years from the end of the previous year in which such application was made from the corpus:

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Provided also that nothing contained in the first proviso shall apply where application from the corpus is made on or before the 31st day of March, 2021;

(ii) application for charitable or religious purposes, from any loan or borrowing, shall not be treated as application of income for charitable or religious purposes:

Provided that the amount not so treated as application, or part thereof, shall be treated as application for charitable or religious purposes in the previous year in which the loan or borrowing, or part thereof, is repaid from the income of that year and to the extent of such repayment.

Provided further that provisions of the first proviso shall apply only if there was no violation of the conditions specified--

(a) in clause (c) of this sub-section;

(b) in Explanations 2, 3 and 5 of this subsection;

(c) in the Explanation to this section; and

(d) in clause (c) of sub-section (1) of section 13, at the time the application was made from loan or borrowing:

Provided also that the amount repaid shall not be treated as application for charitable or religious purposes under the first proviso unless such repayment is made within a period of five years from the end of the previous year in which such application was made from loan or borrowing:

Provided also that nothing contained in the first proviso shall apply where application from any loan or borrowing is made on or before the 31st day of March, 2021; and

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(iii) any amount credited or paid, other than the amount referred to in Explanation 2, to any fund or trust or institution or any university or other educational institution or any hospital or other medical institution referred to in sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via) of clause (23C) of section 10, as the case may be, or other trust or institution registered under section 12AB, as the case may be, shall be treated as application for charitable or religious purposes only to the extent of eighty-five per cent. of such amount credited or paid.

Explanation 5.--For the purposes of this sub-section, it is hereby clarified that the calculation of income required to be applied or accumulated during the previous year shall be made without any set off or deduction or allowance of any excess application of any of the year preceding the previous year.

(1A) For the purposes of sub-section (1), -

(a) where a capital asset, being property held under trust wholly for charitable or religious purposes, is transferred and the whole or any part of the net consideration is utilised for acquiring another capital asset to be so held, then, the capital gain arising from the transfer shall be deemed to have been applied to charitable or religious purposes to the extent specified hereunder, namely:

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

(ii) where 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 ;

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(b) where a capital asset, being property held under trust in part only for such purposes, is transferred and the whole or any part of the net consideration is utilised for acquiring another capital asset to be so held, then, the appropriate fraction of the capital gain arising from the transfer shall be deemed to have been applied to charitable or religious purposes to the extent specified hereunder, namely:

(i) where the whole of the net consideration is utilised in acquiring the new capital asset, the whole of the 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.

Explanation: In this sub-section, -

(i) "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 purposes ;

(ii) "cost of the transferred asset" means the aggregate of the cost of acquisition (as ascertained for the purposes of sections 48 and 49) of the capital asset which is the subject of the transfer and the cost of any improvement thereto within the meaning assigned to that expression in \*sub-clause (b) of clause (1) of section 55;

(iii) "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.

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(1B) Where any income in respect of which an option is exercised under clause (2) of the Explanation to sub-section (1) is not applied to charitable or religious purposes in India during the period referred to in sub-clause (a) or, as the case may be, sub-clause (b), of the said clause, then, such income shall be deemed to be the income of the person in receipt thereof -

(a) in the case referred to in sub-clause (i) of the said clause, of the previous year immediately following the previous year in which the income was received; or

(b) in the case referred to in sub-clause (ii) of the said clause, of the previous year immediately following the previous year in which the income was derived.

(2) Where eighty-five per cent of the income referred to in clause (a) or clause (b) of sub-section (1) read with the Explanation to that sub-section is not applied, or is not deemed to have been applied, to charitable or religious purposes in India during the previous year but is accumulated or set apart, either in whole or in part, for application to such purposes in India, such income so accumulated or set apart shall not be included in the total income of the previous year of the person in receipt of the income, provided the following conditions are complied with, namely:

(a) such person furnishes a statement in the prescribed form and in the prescribed manner to the Assessing Officer, stating the purpose for which the income is being accumulated or set apart and the period for which the income is to be accumulated or set apart, which shall in no case exceed five years;

(b) the money so accumulated or set apart is invested or deposited in the forms or modes specified in sub-section (5);

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(c) the statement referred to in clause (a) is furnished at least two months prior to the due date specified under sub-section (1) of section 139 for furnishing the return of income for the previous year:

Provided that in computing the period of five years referred to in clause (a), the period during which the income could not be applied for the purpose for which it is so accumulated or set apart, due to an order or injunction of any court, shall be excluded.

Explanation: Any amount credited or paid, out of income referred to in clause (a) or clause (b) of sub-section (1), read with the Explanation to that sub-section, which is not applied, but is accumulated or set apart, to any trust or institution registered under section 12AA or section 12AB or to any fund or institution or trust or any university or other educational institution or any hospital or other medical institution referred to in sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via) of clause (23C) of section 10, shall not be treated as application of income for charitable or religious purposes, either during the period of accumulation or thereafter.

(3) Any income referred to in sub-section (2) which -

(a) is applied to purposes other than charitable or religious purposes as aforesaid or ceases to be accumulated or set apart for application thereto, or

(b) ceases to remain invested or deposited in any of the forms or modes specified in sub-section (5), or

(c) is not utilised for the purpose for which it is so accumulated or set apart during the period referred to in clause (a) of that sub-section 28,

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(d) is credited or paid to any trust or institution registered under section 12AA or section 12AB or to any fund or institution or trust or any university or other educational institution or any hospital or other medical institution referred to in sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via) of clause (23C) of section 10,

shall be deemed to be the income of such person of the previous year--

(i) in which it is so applied or ceases to be so accumulated or set apart under clause (a); or

(ii) in which it ceases to remain so invested or deposited under clause (b); or

(iii) being the last previous year of the period, for which the income is accumulated or set apart but not utilised for the purpose for which it is so accumulated or set apart under clause (c); or

(iv) in which it is credited or paid to any fund or institution or trust or any university or other educational institution or any hospital or other medical institution under clause (d).

(3A) Notwithstanding anything contained in sub-section (3), where due to circumstances beyond the control of the person in receipt of the income, any income invested or deposited in accordance with the provisions of clause (b) of sub-section (2) cannot be applied for the purpose for which it was accumulated or set apart, the Assessing Officer may, on an application made to him in this behalf, allow such person to apply such income for such other charitable or religious purpose in India as is specified in the application by such person and as is in conformity with the objects of the trust; and thereupon the provisions of sub-section

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(3) shall apply as if the purpose specified by such person in the application under this sub-section were a purpose specified in the notice given to the Assessing Officer] under clause (a) of sub-section (2):

Provided that the Assessing Officer shall not allow application of such income by way of payment or credit made for the purposes referred to in clause (d) of sub-section (3) of section 11:

Provided further that in case the trust or institution, which has invested or deposited its income in accordance with the provisions of clause (b) of sub-section (2), is dissolved, the Assessing Officer may allow application of such income for the purposes referred to in clause (d) of sub-section (3) in the year in which such trust or institution was dissolved.

(4) For the purposes of this section "property held under trust" includes a business undertaking so held, and where a claim is made that the income of any such undertaking shall not be included in the total income of the persons in receipt thereof, the Assessing Officer shall have power to determine the income of such undertaking in accordance with the provisions of this Act relating to assessment; and where any income so determined is in excess of the income as shown in the accounts of the undertaking, such excess shall be deemed to be applied to purposes other than charitable or religious purposes.

(4A) Sub-section (1) or sub-section (2) or sub-section (3) or sub-section (3A) shall not apply in relation to any income of a trust or an institution, being profits and gains of business, unless the business is incidental to the attainment of the objectives of the trust or, as the case may be, institution, and separate books of account are maintained by such trust or institution in respect of such business.

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(5) The forms and modes of investing or depositing the money referred to in clause (b) of sub-section (2) shall be the following, namely:

(i) investment in savings certificates as defined in clause (c) of section 2 of the Government Savings Certificates Act, 1959 (46 of 1959), and any other securities or certificates issued by the Central Government under the Small Savings Schemes of that Government;

(ii) deposit in any account with the Post Office Savings Bank;

(iii) deposit in any account with a scheduled bank or a co-operative society engaged in carrying on the business of banking (including a co-operative land mortgage bank or a co-operative land development bank).

Explanation: In this clause, "scheduled bank" means the State Bank of India constituted under the State Bank of India Act, 1955 (23 of 1955), a subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959 (38 of 1959), a corresponding new bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (5 of 1970), or under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980 (40 of 1980), or any other bank being a bank included in the Second Schedule to the Reserve Bank of India Act, 1934 (2 of 1934);

(iv) investment in units of the Unit Trust of India established under the Unit Trust of India Act, 1963 (52 of 1963);

(v) investment in any security for money created and issued by the Central Government or a State Government;

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(vi) investment in debentures issued by, or on behalf of, any company or corporation both the principal whereof and the interest whereon are fully and unconditionally guaranteed by the Central Government or by a State Government;

(vii) investment or deposit in any public sector company:

Provided that where an investment or deposit in any public sector company has been made and such public sector company ceases to be a public sector company, -

(A) such investment made in the shares of such company shall be deemed to be an investment made under this clause for a period of three years from the date on which such public sector company ceases to be a public sector company;

(B) such other investment or deposit shall be deemed to be an investment or deposit made under this clause for the period up to the date on which such investment or deposit becomes repayable by such company;

(viii) deposits with or investment in any bonds issued by a financial corporation which is engaged in providing long-term finance for industrial development in India and which is eligible for deduction under clause (viii) of sub-section (1) of section 36;

(ix) deposits with or investment in any bonds issued by a public company formed and registered in India with the main object of carrying on the business of providing long-term finance for construction or purchase of houses in India for residential purposes and which is eligible for deduction under clause (viii) of sub-section (1) of section 36;

(ixa) deposits with or investment in any bonds issued by a public company formed and registered in India with the main object of

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carrying on the business of providing long-term finance for urban infrastructure in India.

Explanation: For the purposes of this clause, -

(a) "long-term finance" means any loan or advance where the terms under which moneys are loaned or advanced provide for repayment along with interest thereof during a period of not less than five years;

(b) "public company" shall have the meaning assigned to it in section 3 of the Companies Act, 1956 (1 of 1956);

(c) "urban infrastructure" means a project for providing potable water supply, sanitation and sewerage, drainage, solid waste management, roads, bridges and flyovers or urban transport;

(x) investment in immovable property.

Explanation: "Immovable property" does not include any machinery or plant (other than machinery or plant installed in a building for the convenient occupation of the building) even though attached to, or permanently fastened to, anything attached to the earth;

(xi) deposits with the Industrial Development Bank of India established under the Industrial Development Bank of India Act, 1964 (18 of 1964);

(xii) any other form or mode of investment or deposit as may be prescribed.<sup>10</sup>

(6) In this section where any income is required to be applied or accumulated or set apart for application, then, for such purposes the income shall be determined without any deduction or allowance by way of depreciation or otherwise in respect of any

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asset, acquisition of which has been claimed as an application of income under this section in the same or any other previous year.

(7) Where a trust or an institution has been granted registration under clause (b) of sub-section (1) of section 12AA or has obtained registration at any time under section 12A as it stood before its amendment by the Finance (No. 2) Act, 1996 (33 of 1996) and the said registration is in force for any previous year, then, nothing contained in section 10 other than clause (1), clause (23C), clause (23EA), clause (23EC), clause (23ED), clause (46), clause (46A) and clause (46B) thereof shall operate to exclude any income derived from the property held under trust from the total income of the person in receipt thereof for that previous year.

Explanation.-- For the purposes of this section, any sum payable by any trust or institution shall be considered as application of income in the previous year in which such sum is actually paid by it (irrespective of the previous year in which the liability to pay such sum was incurred by the trust or institution according to the method of accounting regularly employed by it):

Provided that where during any previous year, any sum has been claimed to have been applied by the trust or institution, such sum shall not be allowed as application in any subsequent previous year.

Provided that such registration shall become inoperative from the date on which the trust or institution is approved under clause (23C) of section 10 is notified under clause (23EA) or clause (23EC) or clause (23ED) or clause (46) or clause (46A) of the said section, as the case may be, or the date on which this proviso has come into force, whichever is later or, the 1st day of April of

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the previous year relevant to the assessment year for which the exemption is claimed under clause (46B) of the said section:

Provided further that the trust or institution, whose registration has become inoperative under the first proviso, may apply to get its registration operative under section 12AA, or section 12AB subject to the condition that on doing so, the approval under clause (23C) of section 10 or notification under clause (23EA) or clause (23EC) or clause (23ED) or clause (46) or clause (46A) of the said section, as the case may be, to such trust or institution shall cease to have any effect from the date on which the said registration becomes operative and thereafter, it shall not be entitled to exemption under the respective clauses.

## **12. Income of trusts or institutions from contributions**

Any voluntary contributions received by a trust created wholly for charitable or religious purposes or by an institution established wholly for such purposes (not being contributions made with a specific direction that they shall form part of the corpus of the trust or institution) shall for the purposes of section 11 be deemed to be income derived from property held under trust wholly for charitable or religious purposes and the provisions of that section and section 13 shall apply accordingly.

(2) The value of any services, being medical or educational services, made available by any charitable or religious trust running a hospital or medical institution or an educational institution, to any person referred to in clause (a) or clause (b) or clause (c) or clause (cc) or clause (d) of sub-section (3) of section 13, shall be deemed to be income of such trust or institution derived from property held under trust wholly for charitable or religious purposes during the previous year in which such

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services are so provided and shall be chargeable to income-tax notwithstanding the provisions of sub-section (1) of section 11.

Explanation: For the purposes of this sub-section, the expression “value” shall be the value of any benefit or facility granted or provided free of cost or at concessional rate to any person referred to in clause (a) or clause (b) or clause (c) or clause (cc) or clause (d) of sub-section (3) of section 13.

(3) Notwithstanding anything contained in section 11, any amount of donation received by the trust or institution in terms of clause (d) of sub-section (2) of section 80G in respect of which accounts of income and expenditure have not been rendered to the authority prescribed under clause (v) of sub-section (5C) of that section, in the manner specified in that clause, or which has been utilised for purposes other than providing relief to the victims of earthquake in Gujarat or which remains unutilised in terms of sub-section (5C) of section 80G and not transferred to the Prime Minister’s National Relief Fund on or before the 31st day of March, 2004 shall be deemed to be the income of the previous year and shall accordingly be charged to tax.

### **12A. Conditions for applicability of sections 11 and 12**

The provisions of section 11 and section 12 shall not apply in relation to the income of any trust or institution unless the following conditions are fulfilled, namely:--

(a) the person in receipt of the income has made an application for registration of the trust or institution in the prescribed form<sup>1</sup> and in the prescribed manner<sup>2</sup> to the Principal Commissioner or Commissioner before the 1st day of July, 1973, or before the expiry of a period of one year from the date of the creation of the

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trust or the establishment of the institution whichever is later and such trust or institution is registered under section 12AA:

Provided that where an application for registration of the trust or institution is made after the expiry of the period aforesaid, the provisions of section 11 and section 12 shall apply in relation to the income of such trust or institution,-

(i) from the date of the creation of the trust or the establishment of the institution if the Principal Commissioner or Commissioner is, for reasons to be recorded in writing, satisfied that the person in receipt of the income was prevented from making the application before the expiry of the period aforesaid for sufficient reasons;

(ii) from the 1st day of the financial year in which the application is made, if the Principal Commissioner or Commissioner is not so satisfied:

Provided further that the provisions of this clause shall not apply in relation to any application made on or after the 1st day of June, 2007;

(aa) the person in receipt of the income has made an application for registration of the trust or institution on or after the 1st day of June, 2007 in the prescribed form and manner to the Principal Commissioner or Commissioner and such trust or institution is registered under section 12AA;

(ab) the person in receipt of the income has made an application for registration of the trust or institution, in a case where a trust or an institution has been granted registration under section 12AA or has obtained registration at any time under section 12A as it stood before its amendment by the Finance (No. 2) Act, 1996 (33 of 1996), and, subsequently, it has adopted or

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undertaken modifications of the objects which do not conform to the conditions of registration, in the prescribed form and manner, within a period of thirty days from the date of said adoption or modification, to the Principal Commissioner or Commissioner and such trust or institution is registered under section 12AA;

(ac) notwithstanding anything contained in clauses (a) to (ab), the person in receipt of the income has made an application in the prescribed form and manner to the Principal Commissioner or Commissioner, for registration of the trust or institution,--

(i) where the trust or institution is registered under section 12A as it stood immediately before its amendment by the Finance (No. 2) Act, 1996 (33 of 1996) or under section 12AA as it stood immediately before its amendment by the Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020, within three months from the 1st day of April, 2021;

(ii) where the trust or institution is registered under section 12AB or approved under sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via) of clause (23C) of section 10 and the period of the said registration or approval, as the case may be, is due to expire, at least six months prior to expiry of the said period;

(iii) where the trust or institution has been provisionally registered under section 12AB or provisionally approved under sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via) of clause (23C) of section 10, at least six months prior to expiry of period of the provisional registration or provisional approval, as the case may be, or within six months of commencement of its activities, whichever is earlier;

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(iv) where registration of the trust or institution has become inoperative due to the first proviso to sub-section (7) of section 11, at least six months prior to the commencement of the assessment year from which the said registration is sought to be made operative;

(v) where the trust or institution has adopted or undertaken modifications of the objects which do not conform to the conditions of registration, within a period of thirty days from the date of the said adoption or modification;

(vi) in any other case, where activities of the trust or institution have --

(A) not commenced, at least one month prior to the commencement of the previous year relevant to the assessment year from which the said registration is sought;

(B) commenced and no income or part thereof of the said trust or institution has been excluded from the total income on account of applicability of sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via) of clause (23C) of section 10, or section 11 or section 12, for any previous year ending on or before the date of such application, at any time after the commencement of such activities,

Provided that where the application is filed beyond the time allowed in sub-clauses (i) to (vi), the Principal Commissioner or Commissioner may, if he considers that there is a reasonable cause for delay in filing the application, condone such delay and such application shall be deemed to have been filed within time;

(b) where the total income of the trust or institution as computed under this Act without giving effect to the provisions of sections

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11 and 12 exceeds the maximum amount which is not chargeable to income-tax in any previous year,--

(i) the books of account and other documents have been kept and maintained in such form and manner and at such place, as may be prescribed; and

(ii) the accounts of the trust or institution for that year have been audited by an accountant defined in the Explanation below sub-section (2) of section 288 before the specified date referred to in section 44AB and the person in receipt of the income furnishes by that date the report of such audit in the prescribed form duly signed and verified by such accountant and setting forth such particulars, as may be prescribed;

(ba) the person in receipt of the income has furnished the return of income for the previous year in accordance with the provisions of sub-section (4A) of section 139, 26[within the time allowed under sub-section (1) or sub-section (4) of that section.

(c) [Omitted];

(2) Where an application has been made on or after the 1st day of June, 2007, the provisions of sections 11 and 12 shall apply in relation to the income of such trust or institution from the assessment year immediately following the financial year in which such application is made.

### **12AA. Procedure for registration**

The Principal Commissioner or Commissioner, on receipt of an application for registration of a trust or institution made under clause (a) or clause (aa) or clause (ab) of sub-section (1) of section 12A, shall –

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(a) call for such documents or information from the trust or institution as he thinks necessary in order to satisfy himself about,--

(i) the genuineness of activities of the trust or institution; and

(ii) the compliance of such requirements of any other law for the time being in force by the trust or institution as are material for the purpose of achieving its objects, and may also make such inquiries as he may deem necessary in this behalf; and;

(b) after satisfying himself about the objects of the trust or institution and the genuineness of its activities as required under sub-clause (i) of clause (a) and compliance of the requirements under sub-clause (ii) of the said clause, he –

(i) shall pass an order in writing registering the trust or institution;

(ii) shall, if he is not so satisfied, pass an order in writing refusing to register the trust or institution, and a copy of such order shall be sent to the applicant:

Provided that no order under sub-clause (ii) shall be passed unless the applicant has been given a reasonable opportunity of being heard

(1A) All applications, pending before the Principal Chief Commissioner or Chief Commissioner on which no order has been passed under clause (b) of sub-section (1) before the 1st day of June, 1999, shall stand transferred on that day to the Principal Commissioner or Commissioner and the Principal Commissioner or Commissioner may proceed with such applications under that sub-section from the stage at which they were on that day.

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(2) Every order granting or refusing registration under clause (b) of subsection (1) shall be passed before the expiry of six months from the end of the month in which the application was received under clause (a) or clause (aa) or clause (ab) of sub-section (1) of section 12A.

(3) Where a trust or an institution has been granted registration under clause (b) of sub-section (1) or has obtained registration at any time under section 12A as it stood before its amendment by the Finance (No. 2) Act, 1996 (33 of 1996) and subsequently the Principal Commissioner or Commissioner is satisfied that the activities of such trust or institution are not genuine or are not being carried out in accordance with the objects of the trust or institution, as the case may be, he shall pass an order in writing cancelling the registration of such trust or institution:

Provided that no order under this sub-section shall be passed unless such trust or institution has been given a reasonable opportunity of being heard

(4) Without prejudice to the provisions of sub-section (3), where a trust or an institution has been granted registration under clause (b) of sub-section (1) or has obtained registration at any time under section 12A as it stood before its amendment by the Finance (No. 2) Act, 1996 (33 of 1996) and subsequently it is noticed that:

(a) the activities of the trust or the institution are being carried out in a manner that the provisions of sections 11 and 12 do not apply to exclude either whole or any part of the income of such trust or institution due to operation of sub-section (1) of section 13; or

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(b) the trust or institution has not complied with the requirement of any other law, as referred to in sub-clause (ii) of clause (a) of sub-section (1), and the order, direction or decree, by whatever name called, holding that such non-compliance has occurred, has either not been disputed or has attained finality, then, the Principal Commissioner or the Commissioner may, by an order in writing, cancel the registration of such trust or institution.

Provided that the registration shall not be cancelled under this sub-section, if the trust or institution proves that there was a reasonable cause for the activities to be carried out in the said manner.

(5) Nothing contained in this section shall apply on or after the 1st day of April, 2021.

**12AB. Procedure for fresh registration**

(1) The Principal Commissioner or Commissioner, on receipt of an application made under clause (ac) of sub-section (1) of section 12A, shall,--

(a) where the application is made under sub-clause (i) of the said clause, pass an order in writing registering the trust or institution for a period of five years;

(b) where the application is made under sub-clause (ii) or sub-clause (iii) or sub-clause (iv) or sub-clause (v) or item (B) of sub-clause (vi) of the said clause,--

(i) call for such documents or information from the trust or institution or make such inquiries as he thinks necessary in order to satisfy himself about--

(A) the genuineness of activities of the trust or institution; and

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(B) the compliance of such requirements of any other law for the time being in force by the trust or institution as are material for the purpose of achieving its objects;

(ii) after satisfying himself about the objects of the trust or institution and the genuineness of its activities under item (A) and compliance of the requirements under item (B), of sub-clause (i),--

(A) pass an order in writing registering the trust or institution for a period of five years; or

(B) if he is not so satisfied, pass an order in writing,--

(I) in a case referred to in sub-clause (ii) or sub-clause (iii) or sub-clause (v) of clause (ac) of sub-section (1) of section 12A rejecting such application and also cancelling its registration;

(II) in a case referred to in sub-clause (iv) or in item (B) of sub-clause (vi) of sub-section (1) of section 12A, rejecting such application, after affording a reasonable opportunity of being heard;

(c) where the application is made under item (A) of sub-clause (vi) of the said clause or the application is made under sub-clause (vi) of the said clause, as it stood immediately before its amendment vide the Finance Act, 2023, pass an order in writing provisionally registering the trust or institution for a period of three years from the assessment year from which the registration is sought;

Provided that where an application is made under sub-clauses (i) to (v) of the said clause, and the total income of such trust or institution, without giving effect to the provisions of sections 11 and 12, does not exceed rupees five crores during each of the two

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previous years, preceding the previous year in which such application is made, the provisions of this sub-section shall have effect as if for the words "five years", the words "ten years" had been substituted.

(2) All applications, pending before the Principal Commissioner or Commissioner on which no order has been passed under clause (b) of sub-section (1) of section 12AA before the date on which this section has come into force, shall be deemed to be applications made under sub-clause (vi) of clause (ac) of sub-section (1) of section 12A on that date.

(3) The order under sub-section (1) shall be passed, in such form and manner as may be prescribed, within a period of,--

(i) three months calculated from the end of the month in which the application was received in case of clause (a);

(ii) six months calculated from the end of the quarter in which the application was received in case of sub-clause (ii) of clause (b); and

(iii) one month calculated from the end of the month in which the application was received in case of clause (c).

(4) Where registration or provisional registration of a trust or an institution has been granted under clause (a) or clause (b) or clause (c) of sub-section (1) or clause (b) of subsection (1) of section 12AA, as the case may be, and subsequently,--

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

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(b) the Principal Commissioner or Commissioner has received a reference from the Assessing Officer under the second proviso to sub-section (3) of section 143 for any previous year; or

(c) such case has been selected in accordance with the risk management strategy, formulated by the Board from time to time, for any previous year, the Principal Commissioner or Commissioner shall--

(i) call for such documents or information from the trust or institution, or make such inquiry as he thinks necessary in order to satisfy himself about the occurrence or otherwise of any specified violation;

(ii) pass an order in writing, cancelling the registration of such trust or institution, after affording a reasonable opportunity of being heard, for such previous year and all subsequent previous years, if he is satisfied that one or more specified violations have taken place;

(iii) pass an order in writing, refusing to cancel the registration of such trust or institution, if he is not satisfied about the occurrence of one or more specified violations;

(iv) forward a copy of the order under clause (ii) or clause (iii), as the case may be, to the Assessing Officer and such trust or institution.

Explanation.--For the purposes of this sub-section, the following shall mean "specified violation",--

(a) where any income derived from property held under trust, wholly or in part for charitable or religious purposes, has been applied, other than for the objects of the trust or institution; or

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(b) the trust or institution has income from profits and gains of business which is not incidental to the attainment of its objectives or separate books of account are not maintained by such trust or institution in respect of the business which is incidental to the attainment of its objectives; or

(c) the trust or institution has applied any part of its income from the property held under a trust for private religious purposes, which does not enure for the benefit of the public; or

(d) the trust or institution established for charitable purpose created or established after the commencement of this Act, has applied any part of its income for the benefit of any particular religious community or caste; or

(e) any activity being carried out by the trust or institution--

(i) is not genuine; or

(ii) is not being carried out in accordance with all or any of the conditions subject to which it was registered; or

(f) the trust or institution has not complied with the requirement of any other law, as referred to in item (B) of sub-clause (i) of clause (b) of sub-section (1), and the order, direction or decree, by whatever name called, holding that such non-compliance has occurred, has either not been disputed or has 8[attained finality; or

(g) the application referred to in clause (ac) of subsection (1) of section 12A contains false or incorrect information.

(5) The order under clause (ii) or clause (iii) of subsection (4), as the case may be, shall be passed before the expiry of a period of six months, calculated from the end of the quarter in which the first notice is issued by the Principal Commissioner or

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Commissioner, on or after the 1st day of April, 2022, calling for any document or information, or for making any inquiry, under clause (i) of sub-section (4).

**12AC. Merger of charitable trusts or institutions in certain cases**

Where any trust or institution registered under section 12AB or approved under sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via) of clause (23C) of section 10, as the case may be, merges with another trust or institution, the provisions of Chapter XII-EB shall not apply if--

- (a) the other trust or institution has same or similar objects;
- (b) the other trust or institution is registered under section 12AA or section 12AB or approved under sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via) of clause (23C) of section 10, as the case may be; and
- (c) the said merger fulfils such conditions as may be prescribed

**13. Section 11 not to apply in certain cases**

Nothing contained in section 11 or section 12 shall operate so as to exclude from the total income of the previous year of the persons in receipt thereof –

- (a) any part of the income from the property held under a trust for private religious purposes which does not enure for the benefit of the public;
- (b) in the case of a trust for charitable purposes or a charitable institution created or established after the commencement of this Act, any income thereof if the trust or institution is created or

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established for the benefit of any particular religious community or caste;

(c) in the case of a trust for charitable or religious purposes or a charitable or religious institution, any income thereof –

(i) if such trust or institution has been created or established after the commencement of this Act and under the terms of the trust or the rules governing the institution, any part of such income enures, or

(ii) if any part of such income or any property of the trust or the institution (whenever created or established) is during the previous year used or applied, directly or indirectly for the benefit of any person referred to in 8[sub-section (3), such part of income as referred to in sub-clauses (i) and (ii):

Provided that in the case of a trust or institution created or established before the commencement of this Act, the provisions of sub-clause (ii) shall not apply to any use or application, whether directly or indirectly, of any part of such income or any property of the trust or institution for the benefit of any person referred to in sub-section (3), if such use or application is by way of compliance with a mandatory term of the trust or a mandatory rule governing the institution:

Provided further that in the case of a trust for religious purposes or a religious institution (whenever created or established) or a trust for charitable purposes or a charitable institution created or established before the commencement of this Act, the provisions of sub-clause (ii) shall not apply to any use or application, whether directly or indirectly, of any part of such income or any property of the trust or institution for the benefit of any person

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referred to in sub-section (3) in so far as such use or application relates to any period before the 1st day of June, 1970;

(d) in the case of a trust for charitable or religious purposes or a charitable or religious institution, any income thereof, if for any period during the previous year—

(i) any funds of the trust or institution are invested or deposited after the 28th day of February, 1983 otherwise than in any one or more of the forms or modes specified in sub-section (5) of section 11; or

(ii) any funds of the trust or institution invested or deposited before the 1st day of March, 1983 otherwise than in any one or more of the forms or modes specified in sub-section (5) of section 11 continue to remain so invested or deposited after the 30th day of November, 1983, to the extent of such deposits or investments referred to in sub-clauses (i), (ii) and (iii); or

(iii) any shares in a company, other than —

(A) shares in a public sector company;

(B) shares prescribed as a form or mode of investment under clause (xii) of sub-section (5) of section 11, are held by the trust or institution after the 30th day of November, 1983, to the extent of such deposits or investments referred to in sub-clauses (i), (ii) and (iii).

Provided that nothing in this clause shall apply in relation to —

(i) any assets held by the trust or institution where such assets form part of the corpus of the trust or institution as on the 1st day of June, 1973;

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(ia) any accretion to the shares, forming part of the corpus mentioned in clause (i), by way of bonus shares allotted to the trust or institution;

(ii) any assets (being debentures issued by, or on behalf of, any company or corporation) acquired by the trust or institution before the 1st day of March, 1983;

(iia) any asset, not being an investment or deposit in any of the forms or modes specified in sub-section (5) of section 11, where such asset is not held by the trust or institution, otherwise than in any of the forms or modes specified in sub-section (5) of section 11, after the expiry of one year from the end of the previous year in which such asset is acquired or the 31st day of March, 1993, whichever is later;

(iii) any funds representing the profits and gains of business, being profits and gains of any previous year relevant to the assessment year commencing on the 1st day of April, 1984 or any subsequent assessment year.

Explanation: Where the trust or institution has any other income in addition to profits and gains of business, the provisions of clause (iii) of this proviso shall not apply unless the trust or institution maintains separate books of account in respect of such business.

Explanation: For the purposes of sub-clause (ii) of clause (c), in determining whether any part of the income or any property of any trust or institution is during the previous year used or applied, directly or indirectly, for the benefit of any person referred to in sub-section (3), in so far as such use or application relates to any period before the 1st day of July, 1972, no regard shall be had to the amendments made to this section by section 7

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other than sub-clause (ii) of clause (a) thereof of the Finance Act, 1972.

(iv) any asset referred to in sub-clauses (i), (ia) and (ii) of clause (b) of the third proviso to clause (23C) of section 10 or any accretion to the shares, forming part of the corpus mentioned in the said sub-clause (i) and (ia) and voluntary contributions referred to in sub-clause (iv) of clause (b) of the said proviso.

(2) Without prejudice to the generality of the provisions of clause (c) and clause (d) of sub-section (1), the income or the property of the trust or institution or any part of such income or property shall, for the purposes of that clause, be deemed to have been used or applied for the benefit of a person referred to in sub-section (3),—

(a) if any part of the income or property of the trust or institution is, or continues to be, lent to any person referred to in sub-section (3) for any period during the previous year without either adequate security or adequate interest or both;

(b) if any land, building or other property of the trust or institution is, or continues to be, made available for the use of any person referred to in sub-section (3), for any period during the previous year without charging adequate rent or other compensation;

(c) if any amount is paid by way of salary, allowance or otherwise during the previous year to any person referred to in sub-section (3) out of the resources of the trust or institution for services rendered by that person to such trust or institution and the amount so paid is in excess of what may be reasonably paid for such services;

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(d) if the services of the trust or institution are made available to any person referred to in sub-section (3) during the previous year without adequate remuneration or other compensation;

(e) if any share, security or other property is purchased by or on behalf of the trust or institution from any person referred to in sub-section (3) during the previous year for consideration which is more than adequate;

(f) if any share, security or other property is sold by or on behalf of the trust or institution to any person referred to in sub-section (3) during the previous year for consideration which is less than adequate;

(g) if any income or property of the trust or institution is diverted during the previous year in favour of any person referred to in sub-section (3):

Provided that this clause shall not apply where the income, or the value of the property or, as the case may be, the aggregate of the income and the value of the property, so diverted does not exceed one thousand rupees;

(h) if any funds of the trust or institution are, or continue to remain, invested for any period during the previous year (not being a period before the 1st day of January, 1971), in any concern in which any person referred to in sub-section (3) has substantial interest.

(3) The persons referred to in clause (c) of sub-section (1) and sub-section (2) are the following, namely:

(a) the author of the trust or the founder of the institution;

(b) any person whose total contribution to the trust or institution, during the relevant previous year exceeds one lakh rupees, or, in

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aggregate up to the end of the relevant previous year exceeds ten lakh rupees, as the case may be;

(c) where such author, founder or person is a Hindu undivided family, a member of the family;

(cc) any trustee of the trust or manager (by whatever name called) of the institution;

(d) any relative of any such author, founder, member, trustee or manager as aforesaid;

(e) any concern in which any of the persons referred to in clauses (a), (c), (cc) and (d) has a substantial interest.

(4) Notwithstanding anything contained in clause (c) of sub-section (1) but without prejudice to the provisions contained in clause (d) of that sub-section, in a case where the aggregate of the funds of the trust or institution invested in a concern in which any person referred to in sub-section (3) has a substantial interest, does not exceed five per cent of the capital of that concern, the exemption under section 11 or section 12 shall not be denied in relation to any income other than the income arising to the trust or the institution from such investment, by reason only that the funds of the trust or the institution have been invested in a concern in which such person has a substantial interest.

(5) Notwithstanding anything contained in clause (d) of sub-section (1), where any assets (being debentures issued by, or on behalf of, any company or corporation) are acquired by the trust or institution after the 28th day of February, 1983 but before the 25th day of July, 1991, the exemption under section 11 or section 12 shall not be denied in relation to any income other than the income arising to the trust or the institution from such assets, by reason only that the funds of the trust or the institution have been

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invested in such assets if such funds do not continue to remain so invested in such assets after the 31st day of March, 1992.

(6) Notwithstanding anything contained in sub-section (1) or sub-section (2), but without prejudice to the provisions contained in sub-section (2) of section 12, in the case of a charitable or religious trust running an educational institution or a medical institution or a hospital, the exemption under section 11 or section 12 shall not be denied in relation to any income, other than the income referred to in sub-section (2) of section 12, by reason only that such trust has provided educational or medical facilities to persons referred to in clause (a) or clause (b) or clause (c) or clause (cc) or clause (d) of sub-section (3).

(7) Nothing contained in section 11 or section 12 shall operate so as to exclude from the total income of the previous year of the person in receipt thereof, any anonymous donation referred to in section 115BBC on which tax is payable in accordance with the provisions of that section.

(8) Nothing contained in section 11 or section 12 shall operate so as to exclude any income from the total income of the previous year of the person in receipt thereof if the provisions of the first proviso to clause (15) of section 2 become applicable in the case of such person in the said previous year.

(9) Nothing contained in sub-section (2) of section 11 shall operate so as to exclude any income from the total income of the previous year of a person in receipt thereof, if--

(i) the statement referred to in clause (a) of the said sub-section in respect of such income is not furnished on or before the due date specified under sub-section (1) of section 139 for furnishing the return of income for the previous year; or

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(ii) the return of income for the previous year is not furnished by such person on or before the due date specified under sub-section (1) of section 139 for furnishing the return of income for the said previous year.

(10) Where the provisions of sub-section (8) are applicable to any trust or institution or it violates the conditions specified under clause (b) or clause (ba) of subsection (1) of section 12A, its income chargeable to tax shall be computed after allowing deduction for the expenditure (other than capital expenditure) incurred in India, for the objects of the trust or institution, subject to fulfilment of the following conditions, namely:--

(a) such expenditure is not from the corpus standing to the credit of the trust or institution as on the end of the financial year immediately preceding the previous year relevant to the assessment year for which income is being computed;

(b) such expenditure is not from any loan or borrowing;

(c) 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 previous year; and

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

Explanation.--For the purposes of determining the amount of expenditure under this sub-section, the provisions of sub-clause (ia) of clause (a) of section 40 and sub-sections (3) and (3A) of section 40A, shall, mutatis mutandis, apply as they apply in computing the income chargeable under the head “Profits and gains of business or profession.

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(11) For the purposes of computing income chargeable to tax under sub-section (10), no deduction in respect of any expenditure or allowance or set-off of any loss shall be allowed to the assessee under any other provision of this Act.

Explanation 1: For the purposes of sections 11, 12, 12A 12AA, 12AB and this section, “trust” includes any other legal obligation and for the purposes of this section “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 or descendant of the individual;
- (v) any lineal ascendant or descendant of the spouse of the individual;
- (vi) spouse of a person referred to in sub-clause (ii), sub-clause (iii), sub-clause (iv) or sub-clause (v);
- (vii) any lineal descendant of a brother or sister of either the individual or of the spouse of the individual.

Explanation 2: A trust or institution created or established for the benefit of Scheduled Castes, backward classes, Scheduled Tribes or women and children shall not be deemed to be a trust or institution created or established for the benefit of a religious community or caste within the meaning of clause (b) of sub-section (1).

Explanation 3: For the purposes of this section, a person shall be deemed to have a substantial interest in a concern,—

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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 twenty per cent of the voting power are, at any time during the previous year, owned beneficially by such person or partly by such person and partly by one or more of the other persons referred to in sub-section (3);

(ii) in the case of any other concern, if such person is entitled, or such person and one or more of the other persons referred to in subsection (3) are entitled in the aggregate, at any time during the previous year, to not less than twenty per cent of the profits of such concern.

### **13A. Special provision relating to incomes of political parties**

Any income of a political party which is chargeable under the head “Income from house property” or “Income from other sources” or “Capital gains” or any income by way of voluntary contributions received by a political party from any person shall not be included in the total income of the previous year of such political party:

Provided that -

(a) such political party keeps and maintains such books of account and other documents as would enable the Assessing Officer to properly deduce its income there from;

(b) in respect of each such voluntary contribution other than contribution by way of electoral bond in excess of twenty thousand rupees, such political party keeps and maintains a

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record of such contribution and the name and address of the person who has made such contribution;

(c) the accounts of such political party are audited by an accountant as defined in the Explanation below sub-section (2) of section 288. and

(d) no donation exceeding two thousand rupees is received by such political party otherwise than by an account payee cheque drawn on a bank or an account payee bank draft or use of electronic clearing system through a bank account or through such other electronic mode as may be prescribed or through electoral bond.

Explanation.--For the purposes of this proviso, "electoral bond" means a bond referred to in the Explanation to sub-section (3) of section 31 of the Reserve Bank of India Act, 1934 (2 of 1934).

Provided further that if the treasurer of such political party or any other person authorised by that political party in this behalf fails to submit a report under sub-section (3) of section 29C of the Representation of People Act, 1951 (43 of 1951) for a financial year, no exemption under this section shall be available for that political party for such financial year.

Provided also that such political party furnishes a return of income for the previous year in accordance with the provisions of sub-section (4B) of section 139 on or before the due date under that section:

Explanation: For the purposes of this section, "political party" means a political party registered under section 29A of the Representation of the People Act, 1951 (43 of 1951).

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13B. Special provisions relating to voluntary contributions received by electoral trust

Any voluntary contributions received by an electoral trust shall not be included in the total income of the previous year of such electoral trust, if--

(a) such electoral trust distributes to any political party, registered under Section 29A of the Representation of the People Act, 1951 (43 of 1951), during the said previous year, ninety-five per cent. of the aggregate donations received by it during the said previous year along with the surplus, if any, brought forward from any earlier previous year; and

(b) such electoral trust functions in accordance with the rules made by the Central Government.