

INCOME TAX RULES 2011



DIRECTORATE OF INCOME TAX (PR, PP & OL)
Mayur Bhawan, New Delhi - 110 001

⁹[(4B)] ¹⁰[The authorised officer] may require any person who is the owner, or has the immediate possession, or control, of any box, locker, safe, almirah or any other receptacle situate in such ¹¹[building, place, vessel, vehicle or aircraft], to open the same and allow access to inspect or examine its contents, and, where the keys thereof are not available or where such person fails to comply with any such requirement, may cause any action to be taken including the breaking open of such box, locker, safe, almirah or other receptacle which ¹²[the authorised officer] may deem necessary for carrying out all or any of the purposes specified in the authority issued under sub-rule (2).

⁹[(4C)] ¹⁰[The authorised officer] may, where it is not practicable to seize the money, bullion, jewellery or other valuable article or thing or any books of account or document, serve an order on the owner or the person who is in immediate possession or control thereof that he shall not remove, part with or otherwise deal with it except with the previous permission of ¹²[the authorised officer], who may take such steps as may be necessary for ensuring compliance with this sub-rule.]

¹³[(5) Any person referred to in clause (iia) of sub-section (1) of section 132 may be searched by the authorised officer with such assistance as he may consider necessary. If such person is a woman, the search shall be made by another woman with a strict regard to decency.]

¹³[(6) Before making a search, the authorised officer shall,—

- (a) where a building or place is to be searched, call upon two or more respectable inhabitants of the locality in which the building or place to be searched is situate, and
- (b) where a vessel, vehicle or aircraft is to be searched, call upon any two or more respectable persons, to attend and witness the search and may issue an order in writing to them or any of them so to do.]

(7) The search shall be made in the presence, of the witnesses aforesaid and a list of all things seized in the course of such search and of the places in which they were respectively found shall be prepared by ¹⁴[the authorised officer] and signed by such witnesses; but no person witnessing a search shall be required to attend as a witness of the search in any proceedings under ¹⁵[the Indian Income-tax Act, 1922 (11 of 1922), or] the Act unless specially summoned.

9. Inserted by the IT (Second Amdt.) Rules, 1965, as sub-rules (4A) and (4B) respectively, and were later renumbered as sub-rules (4B) and (4C) by the IT (Fourth Amdt.) Rules, 1975, w.e.f. 1-10-1975.

10. Substituted for "The Inspecting Assistant Commissioner or the Income-tax Officer, as the case may be," by the IT (Fifth Amdt.) Rules, 1965.

11. Substituted for "building or place" by the IT (Fourth Amdt.) Rules, 1975, w.e.f. 1-10-1975.

12. Substituted for "the Inspecting Assistant Commissioner or the Income-tax Officer, as the case may be," by the IT (Fifth Amdt.) Rules, 1965.

13. Substituted by the IT (Fourth Amdt.) Rules, 1975, w.e.f. 1-10-1975.

14. Substituted for "the Inspecting Assistant Commissioner or the Income-tax Officer" by the IT (Fifth Amdt.) Rules, 1965.

15. Inserted by the IT (Third Amdt.) Rules, 1964.

¹⁶[(8) The occupant of the building, place, vessel, vehicle or aircraft searched, including the person in charge of such vessel, vehicle or aircraft, or some person on his behalf, shall be permitted to attend during the search and a copy of the list prepared under sub-rule (7) shall be delivered to such occupant or person. A copy thereof shall be forwarded to the ¹⁷[Chief Commissioner or Commissioner], and, where the authorisation has been issued by any officer other than the ¹⁷[Chief Commissioner or Commissioner], also to that officer.]

¹⁸[(9) Where any person is searched under clause (iia) of sub-section (1) of section 132, a list of all things taken possession of shall be prepared and a copy thereof shall be delivered to such person. A copy thereof shall be forwarded to the ¹⁷[Chief Commissioner or Commissioner], and, where the authorisation has been issued by any officer other than the ¹⁷[Chief Commissioner or Commissioner], also to that officer.]

¹⁹[(10) ²⁰[The authorised officer] shall place or cause to be placed the bullion, jewellery and other valuable articles and things seized during the search in a package or packages which shall be listed with details of the bullion, jewellery and other valuable articles and things placed therein; every such package shall bear an identification mark and the seal of ²¹[the authorised officer or any other income-tax authority] not below the rank of Income-tax Officer and ²²[the occupant of the building, place, vessel, vehicle or aircraft, including the person in charge of such vessel, vehicle or aircraft, searched] or any other person in his behalf shall also be permitted to place his seal on them. A copy of the list prepared shall be delivered to such occupant or person. A copy shall be forwarded to the ¹⁷[Chief Commissioner or Commissioner] ²³[and where the authorisation has been issued by any officer other than the ²⁴[Chief Commissioner or Commissioner], also to that officer].]

²⁵²⁶[(11)] ²⁷[The authorised officer] may convey the books of account and other documents, if any, seized by him in the course of the search made by him and the package or packages, if any, referred to in sub-rule (10) to the office of any income-

16. Substituted by the IT (Fourth Amdt.) Rules, 1975, w.e.f. 1-10-1975.

17. Substituted for "Commissioner" by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988.

18. Substituted by the IT (Fourth Amdt.) Rules, 1975, w.e.f. 1-10-1975.

19. Inserted by the IT (Third Amdt.) Rules, 1964 and later substituted by the IT (Second Amdt.) Rules, 1965.

20. Substituted for "The Inspecting Assistant Commissioner or the Income-tax Officer, as the case may be," by the IT (Fifth Amdt.) Rules, 1965.

21. Substituted for "the Inspecting Assistant Commissioner or any other income-tax authority", *ibid.*

22. Substituted for "the occupant of the building or place searched" by the IT (Fourth Amdt.) Rules, 1975, w.e.f. 1-10-1975.

23. Substituted for "and also to the Director of Inspection where the authorisation under sub-rule (2) has been issued by him", *ibid.*

24. Substituted for "Commissioner" by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988.

25. Substituted by the IT (Second Amdt.) Rules, 1965.

26. Renumbered by the IT (Third Amdt.) Rules, 1964.

27. Substituted for "The Inspecting Assistant Commissioner or the Income-tax Officer, as the case may be," by the IT (Fifth Amdt.) Rules, 1965.

tax authority not below the rank of Income-tax Officer (hereinafter referred to as the Custodian). Any money seized in the search referred to above may also be deposited with the Custodian.]

²⁸[(12)(i) The Custodian shall take such steps as he may consider necessary for the safe custody of—

- (a) books of account and other documents, and
- (b) the package or packages, conveyed to him.

(ii) The Custodian may deposit for safe custody all or any of the packages with any branch of the Reserve Bank of India or the State Bank of India or of its subsidiaries ²⁹[or the authorised bank] or a Government Treasury.

(iii) Where any money has been deposited with the Custodian, he may credit the money, or remit the money through the nearest ³⁰[branch of the Reserve Bank of India or the State Bank of India or of its subsidiaries or any authorised bank] ³¹[* * *] for being credited, in the Personal Deposit Account of the ³²[Chief Commissioner or Commissioner] in the ³³[branch of the Reserve Bank of India or the State Bank of India or of its subsidiaries or any authorised bank] at the place where the office of the ³²[Chief Commissioner or Commissioner] is situate.]

³⁴[(13) (i) Whenever any sealed package is required to be opened for any of the purposes of the Act, ³⁵[the authorised officer] may, unless he is himself the Custodian, requisition the same from the Custodian and on receipt of the requisition, such package or packages, as the case may be, shall be delivered to him by the Custodian. ³⁶[The authorised officer] may break any seal and open such package in the presence of two respectable witnesses after giving a reasonable notice to the person from whose custody the contents were seized to be present.

(ii) Such person shall be permitted to be present till all or any of the contents of such package are placed in a fresh package or packages and sealed in the manner specified in sub-rule (1) or delivered to such person or the Custodian, as the case may be.]

³⁷[(14)] The ³⁸[Assessing Officer] to whom the books of account or other documents or assets have been handed over under sub-section (9A) of section 132 shall

28. Inserted by the IT (Second Amdt.) Rules, 1965.

29. Inserted by the IT (Sixth Amdt.) Rules, 1981, w.e.f. 19-6-1981.

30. Substituted for "Government Treasury", *ibid.*

31. Words "free of charge" omitted, *ibid.*

32. Substituted for "Commissioner" by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988.

33. Substituted for "Government Treasury" by the IT (Sixth Amdt.) Rules, 1981, w.e.f. 19-6-1981.

34. Inserted by the IT (Second Amdt.) Rules, 1965.

35. Substituted for "the Inspecting Assistant Commissioner or the Income-tax Officer, as the case may be," by the IT (Fifth Amdt.) Rules, 1965.

36. Substituted for "The Inspecting Assistant Commissioner or the Income-tax Officer, as the case may be," *ibid.*

37. Inserted by the IT (Second Amdt.) Rules, 1965 and was later substituted by the IT (Fourth Amdt.) Rules, 1975, w.e.f. 1-10-1975.

38. Substituted for "Income-tax Officer" by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988.

have all the powers conferred on the authorised officer under sub-rules (11) and (13).]

³⁹[**Inquiry under section 132.**

⁴⁰**112A.** (1) Where any money, bullion, jewellery or other valuable article or thing (hereinafter referred to as assets) are seized, the ⁴¹[Assessing Officer], shall, within fifteen days of the seizure ⁴²], and in a case where the assets are handed over to him by the authorised officer under sub-section (9A) of section 132, within fifteen days from the date on which such assets are handed over to him], issue to the person in respect of whom inquiry under sub-section ⁴³[(5)] of section 132 is to be made requiring him on the date to be specified therein (not being earlier than fifteen days from the date of service of such notice) either to attend at the office of the ⁴¹[Assessing Officer] to explain or to produce or cause to be there produced evidence on which such person may rely for explaining the nature of the possession and the source of the acquisition of the assets.

(2) The ⁴¹[Assessing Officer] may issue a notice to the person referred to in sub-rule (1) requiring him on a date specified therein to produce or cause to be produced at such time and at such place as the ⁴¹[Assessing Officer] may specify such accounts or documents or evidence as the ⁴¹[Assessing Officer] may require and may from time to time issue further notices requiring production of such further accounts or documents or other evidence as he may require.

(3) The ⁴¹[Assessing Officer] may examine on oath any other person or make such other inquiry as he may deem fit.

(4) Before any material gathered in the course of the examination or inquiry under sub-rule (3) is used by the ⁴¹[Assessing Officer] against the person referred to in sub-rule (1), the ⁴¹[Assessing Officer] shall give a reasonable notice to that person to show cause why such material should not be used against him.]

39. Inserted by the IT (Second Amdt.) Rules, 1965.

40. Rule 112A(1) is not mandatory in so far as it lays down time-limit of 15 days - *Director of Inspection of Income-tax (Investigation) v. Pooran Mall & Sons* [1974] 96 ITR 390 (SC). The scope of section 132 does not include within its ambit immovable property—*Sardar Parduman Singh v. Union of India* [1987] 166 ITR 115 (Delhi). The words “other valuable article or thing” cannot be understood to take within its ambit immovable property—*M.K. Gabriel Babu v. Asstt. Director of Income-tax* [1990] 186 ITR 435 (Ker.), affirmed in *CIT v. M.K. Gabriel Babu* [1991] 188 ITR 464 (Ker.). Fixed deposit receipts and similar documents of title are not “valuable article or thing”—*Bhagwandas Narayandas v. CIT* [1975] 98 ITR 194 (Guj.). The words “person concerned” in section 132(5) will contextually refer to the person who would be concerned or affected by the making of the order and retention of seized assets - *Ramjibhai Kalidas v. I.G. Desai, ITO* [1971] 80 ITR 721 (Guj.). The above words could refer to the person against whom warrant is issued and not to the person who was in actual possession - *Gulab & Co. v. Superintendent of Central Excise* [1975] 98 ITR 581 (Mad.). Requirement of issuing notice under rule 112A(1) is mandatory - *B.P. Abdul Gafoor v. CIT* [1983] 142 ITR 108 (Ker.). For details, see Taxmann’s Master Guide to Income-tax Rules.

41. Substituted for “Income-tax Officer” by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988.

42. Inserted by the IT (Fourth Amdt.) Rules, 1975, w.e.f. 1-10-1975.

43. Substituted for “(1B)” by the IT (Fifth Amdt.) Rules, 1965.

⁴⁴**[Release of articles under section 132(5).**

112B. Where in pursuance of sub-section ⁴⁵[(5)] of section 132 of the Act, the assets or part thereof have to be released, the ⁴⁶[Assessing Officer] shall forthwith deliver the same to the person from whose custody they were seized in the presence of two respectable witnesses.]

⁴⁷**[Release of remaining assets.**

112C. Any assets or proceeds thereof which remain after the liabilities referred to in clause (i) of sub-section (1) of section ⁴⁸[132B] are discharged shall be forthwith made over or paid to the person, from whose custody the assets were seized, in the presence of two respectable witnesses.]

⁴⁹**[Requisition of books of account, etc.**

112D. (1) The authorisation under sub-section (1) of section 132A by the ⁵⁰[Director General or Director] or the ⁵¹[Chief Commissioner or Commissioner] shall be in Form No. 45C, shall be in writing under the signature of the officer issuing the authorisation and shall bear his seal.

(2) The officer authorised to make a requisition under sub-section (1) of section 132A (hereinafter referred to as the requisitioning officer) shall make the requisition in writing to the officer or authority referred to in clause (a) or clause (b) or, as the case may be, clause (c) of the said sub-section (hereinafter referred to as the delivering officer or authority) calling upon the delivering officer or authority to deliver the books of account, other documents or assets specified in the

44. Inserted by the IT (Second Amdt.) Rules, 1965.

Where tax liability exceeds value of seized goods, department can insist upon a bank guarantee before ordering the release of goods - *Pooran Sugar Works v. Asstt. CIT* [1996] 219 ITR 221 (All.). However, where regular assessment has been completed, no such bank guarantee could be demanded - *Hariharnath Agarwal & Sons (HUF) v. CIT* [1996] 221 ITR 486 (All.). Criminal court cannot order release of goods seized by police, in respect of which warrant of authorisation has been issued - *Parasnath v. Union of India* [1996] 87 Taxman 349 (MP). Rules 112B and 112C are beneficial rules and their validity cannot be impugned - *Bhupendra Ratilal Thakkar v. CIT* [1976] 102 ITR 531 (SC). For details, see Taxmann's Master Guide to Income-tax Rules.

45. Substituted for "(1B)" by the IT (Fifth Amdt.) Rules, 1965.

46. Substituted for "Income-tax Officer" by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988.

47. Inserted by the IT (Second Amdt.) Rules, 1965 and was later substituted by the IT (Fifth Amdt.) Rules, 1965.

Where delay in refund of seized amounts was caused by respondents other than the Commissioner, only those respondents should pay interest to the petitioner - *Mohd. Usman v. Union of India* [1996] 86 Taxman 165 (Delhi). For details, see Taxmann's Master Guide to Income-tax Rules.

48. Substituted for "132A" by the IT (Fourth Amdt.) Rules, 1975, w.e.f. 1-10-1975.

49. Inserted by the IT (Fourth Amdt.) Rules, 1975, w.e.f. 1-10-1975. Original rule 112D was inserted by the IT (Second Amdt.) Rules, 1965 and was later omitted by the IT (Fifth Amdt.) Rules, 1965.

Mere unexplained possession of amount without anything more would not constitute sufficient information leading to an inference that the amount was undisclosed income - *CIT v. Vindhya Metal Corporation* [1997] 224 ITR 614 (SC). For details, see Taxmann's Master Guide to Income-tax Rules.

50. Substituted for "Director of Inspection" by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988.

51. Substituted for "Commissioner", *ibid.*

requisition to him. The requisition shall be accompanied by a copy of the authorisation in Form No. 45C. A copy of the requisition, along with a copy of the authorisation in Form No. 45C, shall be forwarded to the person referred to in clause (a) or clause (b) or, as the case may be, clause (c) of sub-section (1) of section 132A.

(3) The delivering officer or authority shall prepare a list of the books of account or other documents delivered to the requisitioning officer. Before effecting delivery of any bullion, jewellery or other valuable article or thing, the delivering officer or authority shall place or cause to be placed such bullion, jewellery, article or thing in a package or packages which shall be listed with details of such bullion, jewellery, article or thing placed therein. Every such package shall bear an identification mark and seal of the requisitioning officer or of any other income-tax authority not below the rank of Income-tax Officer on behalf of the requisitioning officer, and also of the delivering officer or authority. The person referred to in clause (a) or clause (b) or, as the case may be, clause (c) of sub-section (1) of section 132A or any other person on his behalf shall also be permitted to place his seal on the said package or packages. A copy of the list prepared shall be delivered to such person and a copy thereof shall also be forwarded by the delivering officer to the ⁵²[Chief Commissioner or Commissioner] and also to the ⁵³[Director-General or Director] where the authorisation under sub-rule (1) has been issued by him.

(4) The provisions of sub-rules (11) to (14) (both inclusive) of rule 112 and of rule 112A, rule 112B and rule 112C shall, so far as may be, apply as if the books of account, other documents and assets delivered to the requisitioning officer under section 132A had been seized under sub-section (1) of section 132 by the requisitioning officer from the custody of the person referred to in clause (a) or clause (b) or, as the case may be, clause (c) of sub-section (1) of the said section and as if for the words "the authorised officer" occurring in any of the aforesaid sub-rules and rules, the words "the requisitioning officer" were substituted.]

⁵⁴**[Form of information under section 133B(1).**

112E. The information required to be furnished under sub-section (1) of section 133B shall be in Form No. 45D.]

⁵⁵**[Disclosure of information respecting assesseees.**

113. (1) The application to the ⁵⁶[Chief Commissioner or Commissioner] under ⁵⁷[clause (b) of] sub-section (1) of section 138 for information relating to an assessee in respect of any assessment made either under the Act or under the Indian Income-tax Act, 1922 (11 of 1922), on or after the 1st day of April, 1960, shall be made in Form No. 46.

52. Substituted for "Commissioner" by the IT (Fifth Amtd.) Rules, 1989, w.r.e.f. 1-4-1988.

53. Substituted for "Director of Inspection", *ibid*.

54. Inserted by the IT (Fifth Amtd.) Rules, 1986, w.e.f. 9-7-1986. Marginal heading of the rule has been provided by Editors.

55. Substituted by the IT (Third Amtd.) Rules, 1964.

56. Substituted for "Commissioner" by the IT (Fifth Amtd.) Rules, 1989, w.r.e.f. 1-4-1988.

57. Inserted by the IT (Second Amtd.) Rules, 1968.

(2) The information under ⁵⁸[clause (b) of] sub-section (1) of section 138 shall be furnished by the ⁵⁹[Chief Commissioner or Commissioner] in Form No. 47.

(3) Where it is not possible for the ⁵⁹[Chief Commissioner or Commissioner] to furnish the information asked for by the applicant under ⁵⁸[clause (b) of] sub-section (1) of section 138 owing to the fact that the relevant assessment has not been completed, he shall inform the applicant in Form No. 48.

(4) Where the ⁵⁹[Chief Commissioner or Commissioner] is satisfied that it is not in the public interest to furnish or cause to be furnished the information asked for, he shall intimate the fact to the applicant in Form No. 49.]

⁶⁰⁶¹**Application for allotment of a permanent account number.**

114. (1) An application under sub-section (1) ⁶²[or sub-section (1A) or sub-section (2) or sub-section (3)] of section 139A for allotment of a permanent account number shall be made ⁶³[***] in Form No. 49A.

(2) An application referred to in sub-rule (1) shall be made,—

(i) in cases where the function of allotment of permanent account number under section 139A has been assigned by the ⁶⁴[Chief Commissioner or Commissioner] to any particular ⁶⁵[Assessing Officer], to that ⁶⁵[Assessing Officer];

(ii) in any other case, to the ⁶⁵[Assessing Officer] having jurisdiction to assess the applicant.

(3) The application referred to in sub-rule (1) shall be made,—

(i) in a case where the total income of the person or the total income of any other person in respect of which he is assessable under the Act during any accounting year exceeds the maximum amount which is not chargeable to income-tax and he has not been allotted any permanent account number, on or before the 31st day of May of the assessment year for which such income is assessable;

58. Inserted by the IT (Second Amdt.) Rules, 1968.

59. Substituted for "Commissioner" by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988.

60. Inserted by the IT (Third Amdt.) Rules, 1976, w.e.f. 1-4-1976. Original rule 114 was omitted by the IT (Third Amdt.) Rules, 1964.

See also Notification No. SO 123(E), dated 11-2-1998, as amended by Notification Nos. SO 354(E), dated 28-4-1998, SO 543(E), dated 3-6-1998, SO 323(E), dated 10-3-2004, (as amended by Notification No. 134/2004 [F. No. 414/66/2003-IT (Inv. I)], dated 8-4-2004) and SO 370(E), dated 18-3-2004. See also Taxmann's Master Guide to Income-tax Rules.

61. See section 295(2)(*eeb*). There should be a time-bound programme for the purpose of issuance of PAN number and delivery of PAN card; in case of issuance of PAN number and card the maximum period is three months from the date of application—*Chandrakant Kandlal Sheth v. Union of India* [2002] 255 ITR 407/125 Taxman 975 (Cal.).

62. Substituted for "or sub-section (2)" by the IT (Twenty-fourth Amdt.) Rules, 2001, w.e.f. 31-12-2001.

63. Words "in duplicate" omitted, *ibid*.

64. Substituted for "Commissioner" by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988.

65. Substituted for "Income-tax Officer", *ibid*.

(ii) in the case of a person not falling under clause (i), but carrying on any business ⁶⁶[or profession], the total sales, turnover or gross receipts of which are or is likely to exceed ⁶⁷[five lakh rupees] in any accounting year and who has not been allotted any permanent account number, before the end of that accounting year;]

⁶⁸[(iii) in the case of a person who is required to furnish a return of income under sub-section (4A) of section 139 and who has not been allotted any permanent account number, before the end of the accounting year.]

⁶⁹[(4) The application referred to in sub-rule (1) in respect of persons mentioned in Column 2 of the Table below shall be accompanied by the documents mentioned in Column 3 as proof of identity and address of the applicant :

TABLE

Sl. No.	Applicant	Documents as proof of identity and address
(1)	(2)	(3)
1.	Individual	<p>(i) Proof of identity— Copy of school leaving certificate or matriculation certificate or degree of a recognised educational institution or depository account or credit card or bank account or water bill or ration card or property tax assessment order or passport or voter identity card or driving licence or certificate of identity signed by a Member of Parliament or Member of Legislative Assembly or Municipal Councillor or a Gazetted Officer, as the case may be. In case of a person being a minor, any of the above documents of any of the parents or guardian of such minor shall be deemed to be the proof of identity.</p> <p>(ii) Proof of address— Copy of electricity bill or telephone bill or depository account or credit card or bank account or ration card or employer certificate or passport or voter identity card or property tax assessment order or driving licence or rent receipt or certificate of address signed by a Member of Parliament or Member of Legislative Assembly or Municipal Councillor or a Gazetted Officer, as the case may be. In case of a person being a minor, any of the above documents of any of the parents or guardian of such minor shall be deemed to be the proof of address.</p>

66. Inserted by the IT (Twenty-fourth Amdt.) Rules, 2001, w.e.f. 31-12-2001.

67. Substituted for "fifty thousand rupees", *ibid*.

68. Inserted by the IT (Fifth Amdt.) Rules, 1991, w.e.f. 25-2-1991.

69. Inserted by the IT (Seventh Amdt.) Rules, 2003, w.e.f. 29-5-2003.

Sl. No.	Applicant	Documents as proof of identity and address
(1)	(2)	(3)
2.	Hindu undivided family	Copy of any document applicable in the case of an individual specified in serial number 1, in respect of karta of the Hindu undivided family, as proof of identity and address.
3.	Company	Copy of Certificate of Registration issued by the Registrar of Companies.
4.	Firm	Copy of Certificate of Registration issued by the Registrar of Firms or Copy of Partnership Deed.
5.	Association of persons (Trusts)	Copy of trust deed or Copy of Certificate of Registration Number issued by Charity Commissioner.
6.	Association of persons (other than Trusts) or body of individuals or local authority or artificial juridical person	Copy of Agreement or Copy of Certificate of Registration Number issued by Charity Commissioner or Registrar of Co-operative Society or any other Competent Authority or Any other document originating from any Central or State Government Department establishing Identity and address of such person.]

⁷⁰[**Application for allotment of a tax deduction and collection account number.**

114A. (1) An application under sub-section (1) of section 203A for the allotment of a tax deduction and collection account number shall be made in duplicate in Form No. 49B.

(2) An application referred to in sub-rule (1) shall be made,—

- (i) in cases where the function of allotment of tax deduction and collection account number under section 203A has been assigned by the Chief Commissioner or Commissioner to any particular Assessing Officer, to that Assessing Officer;

70. Substituted by the IT (Twentieth Amdt.) Rules, 2004, w.e.f. 8-12-2004. Prior to its substitution, rule 114A, as amended by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988 and IT (Fifth Amdt.) Rules, 1987, read as under :

'114A. *Application for allotment of a tax deduction account number.*—(1) An application under sub-section (1) of section 203A for the allotment of a tax deduction account number shall be made in duplicate in Form No. 49B.

(2) An application referred to in sub-rule (1) shall be made,—

- (i) in cases where the function of allotment of tax deduction account number under section 203A has been assigned by the Chief Commissioner or Commissioner to any particular Assessing Officer, to that Assessing Officer;

(Contd. on p. 1.265)

- (ii) in any other case, to the Assessing Officer having jurisdiction to assess the applicant.
- (3) The application referred to in sub-rule (1) shall be made,—
- (i) in a case where a person has deducted tax or collected tax in accordance with the provisions of Chapter XVII under the heading '*B.—Deduction at source*' or '*BB.—Collection at source*', as the case may be, prior to the 1st day of October, 2004, on or before the 31st day of January, 2005;
- (ii) in a case where a person has,—
- (a) deducted or deducts tax in accordance with the provisions of Chapter XVII under the heading '*B.—Deduction at source*'; or
- (b) collected or collects tax in accordance with the provisions of Chapter XVII under the heading '*BB.—Collection at source*',

on or after the 1st day of October, 2004, within one month from the end of the month in which the tax was deducted or collected, as the case may be, or the 31st day of January, 2005, whichever is later.]

⁷¹[**Application for allotment of a tax collection account number.**

114AA. (1) An application under sub-section (1) of section 206CA for the allotment of a tax collection account number shall be made in duplicate in Form No. 49B.

- (2) An application referred to in sub-rule (1) shall be made,—
- (i) in cases where the function of allotment of tax collection account number under section 206CA has been assigned by the Chief Commissioner or Commissioner to any particular Assessing Officer, to that Assessing Officer;
- (ii) in any other case, to the Assessing Officer having jurisdiction to assess the applicant.
- (3) The application referred to in sub-rule (1) shall be made,—
- (i) in a case where a person has collected tax in accordance with the provisions of Chapter XVII under the heading '*BB.—Collection at source*' prior to the 1st day of June, 2002, on or before the 30th day of September, 2002;

(Contd. from p. 1.264)

- (ii) in any other case, to the Assessing Officer having jurisdiction to assess the applicant.
- (3) The application referred to in sub-rule (1) shall be made,—
- (i) in a case where a person has deducted tax in accordance with the provisions of Chapter XVII under the heading '*B.—Deduction at source*' prior to the 1st day of June, 1987, on or before the 30th day of September, 1987;
- (ii) in a case where a person has deducted or deducts tax in accordance with the provisions of Chapter XVII under the heading '*B.—Deduction at source*' on or after the 1st day of June, 1987, within one month from the end of the month in which the tax was deducted or the 30th day of September, 1987, whichever is later.'

71. Inserted by the IT (Twentieth Amdt.) Rules, 2002, w.e.f. 5-8-2002.

- (ii) in a case where a person has collected or collects tax in accordance with the provisions of Chapter XVII under the heading '*BB.—Collection at source*' on or after the 1st day of June, 2002, within one month from the end of the month in which the tax was collected or the 30th day of September, 2002, whichever is later.]

⁷²[All documents pertaining to the transactions in relation to which permanent account number ⁷³[****] to be quoted for the purpose of clause (c) of sub-section (5) of section 139A.

114B. Every person shall quote his permanent account number ⁷³[****] in all documents pertaining to the transactions specified below, namely :—

- (a) sale or purchase of any immovable property valued at five lakh rupees or more;
- (b) sale or purchase of a motor vehicle or vehicle, as defined in clause (28) of section 2 of the Motor Vehicles Act, 1988⁷⁴ (59 of 1988), which requires registration by a registering authority under Chapter IV of that Act :
⁷⁵[Provided that for the purposes of this clause, the sale or purchase of a motor vehicle or vehicle does not include two wheeled vehicles, inclusive of any detachable side-car having an extra wheel, attached to the motor vehicle;]
- (c) a time deposit, exceeding fifty thousand rupees, with 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);
- (d) a deposit, exceeding fifty thousand rupees, in any account with Post Office Savings Bank;
- (e) a contract of a value exceeding ⁷⁶[one] lakh rupees for sale or purchase of securities as defined in clause (h) of section 2 of the Securities Contracts (Regulation) Act, 1956⁷⁷ (42 of 1956);

72. Rules 114B to 114D inserted by the IT (Sixteenth Amtd.) Rules, 1998, w.e.f. 1-11-1998.

73. Words "or General Index Register Number" omitted by the IT (Seventeenth Amtd.) Rules, 2004, w.e.f. 1-12-2004.

74. Clause (28) of section 2 of the Motor Vehicles Act, 1988, defines "motor vehicle" or "vehicle" as follows :

'(28) "motor vehicle" or "vehicle" means any mechanically propelled vehicle adapted for use upon roads whether the power of propulsion is transmitted thereto from an external or internal source and includes a chassis to which a body has not been attached and a trailer; but does not include a vehicle running upon fixed rails or a vehicle of a special type adapted for use only in a factory or in any other enclosed premises or a vehicle having less than four wheels fitted with engine capacity of not exceeding twenty-five cubic centimetres;'

75. Inserted by the IT (Twenty-fourth Amtd.) Rules, 1998, w.e.f. 1-11-1998.

76. Substituted for "ten" by the IT (Eighth Amtd.) Rules, 2002, w.e.f. 19-6-2002.

77. Clause (h) of section 2 of the Securities Contracts (Regulation) Act, 1956, defines "securities" as follows :

'(h) "securities" include—

- (i) shares, scrips, stocks, bonds, debentures, debenture stock or other marketable securities of a like nature in or of any incorporated company or other body corporate;
- (ia) derivative;

(Contd. on p. 1.267)

- (f) opening an account ⁷⁸[not being a time-deposit referred to in clause (c)] with 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);
- (g) making an application for installation of a telephone connection (including a cellular telephone connection);
- (h) payment to hotels and restaurants against their bills for an amount exceeding twenty-five thousand rupees at any one time ;
- ⁷⁹(i) payment in cash for purchase of bank drafts or pay orders or banker's cheques from 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) for an amount aggregating fifty thousand rupees or more during any one day;
- (j) deposit in cash aggregating fifty thousand rupees or more, with 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) during any one day;
- (k) payment in cash in connection with travel to any foreign country of an amount exceeding twenty-five thousand rupees at any one time.

Explanation.—For the purposes of this clause,—

- (a) “payment in cash in connection with travel” includes payment in cash towards fare, or to a travel agent or a tour operator, or for the purchase of foreign currency;
- (b) the expression “travel to any foreign country” does not include travel to the neighbouring countries or to such places of pilgrimage as may be specified by the Board under *Explanation 3* of subsection (1) of section 139⁸⁰ ;]

(Contd. from p. 1.266)

- (ib) units or any other instrument issued by any collective investment scheme to the investors in such schemes;
- (ic) security receipt as defined in clause (zg) of section 2 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002;
- (id) units or any other such instrument issued to the investors under any mutual fund scheme.

Explanation.—For the removal of doubts, it is hereby declared that “securities” shall not include any unit linked insurance policy or scrips or any such instrument or unit, by whatever name called, which provides a combined benefit risk on the life of the persons and investment by such persons and issued by an insurer referred to in clause (9) of section 2 of the Insurance Act, 1938 (4 of 1938);

- (ie) any certificate or instrument (by whatever name called), issued to an investor by any issuer being a special purpose distinct entity which possesses any debt or receivable, including mortgage debt, assigned to such entity, and acknowledging beneficial interest of such investor in such debt or receivable, including mortgage debt, as the case may be;
- (ii) Government securities;
- (iia) such other instruments as may be declared by the Central Government to be securities; and
- (iii) rights or interest in securities;

78. Inserted by the IT (Fourth Amdt.) Rules, 1999, w.e.f. 27-1-1999.

79. Clauses (i) to (k) inserted by the IT (Eighth Amdt.) Rules, 2002, w.e.f. 19-6-2002.

80. See notes to Form No. 2C.

- ⁸¹[(l) making an application to any 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) or to any other company or institution, for issue of a credit card;
- (m) payment of an amount of fifty thousand rupees or more to a Mutual Fund for purchase of its units;
- (n) payment of an amount of fifty thousand rupees or more to a company for acquiring shares issued by it;
- (o) payment of an amount of fifty thousand rupees or more to a company or an institution for acquiring debentures or bonds issued by it;
- (p) payment of an amount of fifty thousand rupees or more to the Reserve Bank of India, constituted under section 3 of the Reserve Bank of India Act, 1934 (2 of 1934) for acquiring bonds issued by it :]

⁸²**Provided** that where a person, making an application for opening an account referred to in clause (c) and clause (f) of this rule, is a minor and who does not have any income chargeable to income-tax, he shall quote the permanent account number of his father or mother or guardian, as the case may be, in the document pertaining to the transaction referred to in said clause (c) and clause (f):

Provided further that any person who does not have a permanent account number and who enters into any transaction specified in this rule, shall make a declaration in Form No. 60 giving therein the particulars of such transaction⁸³.]

Class or classes of persons to whom provisions of section 139A shall not apply.

114C. (1) The provisions of section 139A shall not apply to following class or classes of persons, namely :—

- (a) the persons who have agricultural income and are not in receipt of any other income chargeable to income-tax :

81. Inserted by the IT (Seventeenth Amdt.) Rules, 2004, w.e.f. 1-12-2004.

82. Substituted, *ibid.* Prior to their substitution, provisos, as amended by the IT (Eighth Amdt.) Rules, 2002, w.e.f. 19-6-2002 and IT (Fourth Amdt.) Rules, 1999, w.e.f. 27-1-1999, read as under :

“Provided that a person shall quote General Index Register Number in the documents pertaining to transactions specified in the above clauses (a) to (k) till such time the permanent account number is allotted to him :

Provided further that where a person, making an application for opening an account referred to in clause (c) and clause (f) of this rule, is a minor and who does not have any income chargeable to income-tax, he shall quote the permanent account number or General Index Register Number of his father or mother or guardian, as the case may be, in the document pertaining to the transaction referred to in the said clause (c) and clause (f) :

Provided also that any person, who has not been allotted a permanent account number or who does not have a General Index Register Number and who makes payment in cash or otherwise than by a crossed cheque drawn on a bank or through credit card issued by any bank in respect of any transaction specified in clauses (a) to (k), shall make a declaration in Form No. 60 giving therein the particulars of such transaction.”

83. Assessee-bank cannot be penalised for its failure to obtain completely filled in Form No. 60 and/or supporting evidence with respect to addresses of the depositors - *Financial Co-operative Bank Ltd. v. ITO* [2009] 116 ITD 358 (Ahd. - Trib.).

Provided that such persons shall make declaration in Form No. 61 in respect of transactions referred to in ⁸⁴[***] rule 114B;

(b) the non-residents referred to in clause (30) of section 2;

⁸⁵[* * *]

⁸⁶[(c) Central Government, State Governments and Consular Offices in transactions where they are the payers.]

(2) Every person including,—

(a) a registering officer appointed under the Registration Act, 1908 (16 of 1908);

(b) a registering authority referred to in clause (b) of ⁸⁷[rule 114B];

(c) any manager or officer of a banking company referred to in clause (c) ⁸⁸[or clause (i) or clause (j)] ⁸⁹[or clause (l)] of ⁹⁰[rule 114B];

(d) post master;

(e) stock broker, sub-broker, share transfer agent, banker to an issue, trustee of a trust deed, registrar to issue, merchant banker, underwriter, portfolio manager, investment adviser and such other intermediaries registered under section 12 of the Securities and Exchange Board of India Act, 1992 (15 of 1992);

(f) any authority or company receiving application for installation of a telephone by it;

(g) any person raising bills referred to in clause (h) ⁸⁸[or clause (k)] of ⁹⁰[rule 114B];

⁹¹[(h) any person who purchases or sells the immovable property or motor vehicle;]

⁹²[(i) the principal officer of a company referred to in clause (l) or clause (n) or clause (o) of rule 114B;

84. Words “clauses (a) to (k) of” omitted by the IT (Seventeenth Amdt.) Rules, 2004, w.e.f. 1-12-2004. Earlier “(k)” was substituted for “(h)” by the IT (Eighth Amdt.) Rules, 2002, w.e.f. 19-6-2002.

85. Proviso omitted by the IT (Fourth Amdt.) Rules, 1999, w.e.f. 27-1-1999. Prior to its omission, proviso to clause (b), as inserted by the IT (Sixteenth Amdt.) Rules, 1998, w.e.f. 1-11-1998, read as under :

“**Provided** that a non-resident, who enters into any transaction referred to in clauses (a) to (h) of rule 114B, shall furnish copy of his passport.”

86. Inserted by the IT (Fourth Amdt.) Rules, 1999, w.e.f. 27-1-1999.

87. Substituted for “sub-rule (1)”, *ibid*.

88. Inserted by the IT (Eighth Amdt.) Rules, 2002, w.e.f. 19-6-2002.

89. Inserted by the IT (Seventeenth Amdt.) Rules, 2004, w.e.f. 1-12-2004.

90. Substituted for “sub-rule (1)” by the IT (Fourth Amdt.) Rules, 1999, w.e.f. 27-1-1999.

91. Substituted, *ibid*. Prior to its substitution, clause (h), as inserted by the IT (Sixteenth Amdt.) Rules, 1998, w.e.f. 1-11-1998, read as under :

“(h) any person who purchases or sells the immovable property or motor vehicle, receiving any document relating to a transaction specified under clauses (a) to (h) of sub-rule (1) of rule 114B shall ensure that permanent account number or General Index Register Number has been duly quoted in the document or declaration in Form No. 60 or Form No. 61, as the case may be, received by such person.”

92. Inserted by the IT (Seventeenth Amdt.) Rules, 2004, w.e.f. 1-12-2004.

- (j) the principal officer of an institution referred to in clause (l) or clause (o) of rule 114B;
- (k) any trustee or any other person duly authorised by the trustee of a Mutual Fund referred to in clause (m) of rule 114B;
- (l) an officer of the Reserve Bank of India, constituted under section 3 of the Reserve Bank of India Act, 1934 (2 of 1934),]

⁹³[who has received any document relating to a transaction specified in rule 114B shall ensure after verification that permanent account number has been duly and correctly quoted therein.]

⁹⁴[**Time and manner in which persons referred to in sub-rule (2) of rule 114C, shall furnish the copies of Form No. 60 and Form No. 61.**

114D. (1) Every person referred to in sub-rule (2) of rule 114C shall forward to the Commissioner of Income-tax (Central Information Branch) having territorial jurisdiction over the area in which the transaction is entered into, the following documents, namely:—

93. Substituted by the IT (Seventeenth Amdt.) Rules, 2004, w.e.f. 1-12-2004. Prior to its substitution, the specified portion, as amended by the IT (Eighth Amdt.) Rules, 2002, w.e.f. 19-6-2002, read as under:

“who has received any document relating to a transaction specified under clauses (a) to (k) of rule 114B shall ensure after verification that permanent account number or General Index Register Number has been duly and correctly quoted in the document or declaration received by such person.”

94. Substituted by the IT (Seventeenth Amdt.) Rules, 2004, w.e.f. 1-12-2004. Prior to its substitution, rule 114D, as amended by the IT (Sixteenth Amdt.) Rules, 1998, w.e.f. 1-11-1998, IT (Fourth Amdt.) Rules, 1999, w.e.f. 27-1-1999 and IT (Ninth Amdt.) Rules, 2002, w.e.f. 19-6-2002, read as under :

‘114D. *Time and manner in which persons referred to in sub-rule (2) of rule 114C shall intimate the details of transaction to the Director of Income-tax (Investigation).*—(1) Every person referred to in sub-rule (2) of rule 114C shall forward to the concerned Director of Income-tax (Investigation) or Commissioner of Income-tax (Central Information Branch), the following documents, namely :—

- (a) a statement indicating therein details of all documents pertaining to any transaction referred to in clauses (a) to (k) of rule 114B where payment is made in cash;
- (b) the statement referred to in clause (a) shall contain,—
 - (i) name and address of the person entering into the transactions;
 - (ii) nature and date of the transaction;
 - (iii) amount of each transaction;
 - (iv) permanent account number or General Index Register Number quoted in the documents pertaining to any transaction;
- (c) copies of declaration in Form No. 60 referred to in third proviso to rule 114B;
- (d) copies of declaration in Form No. 61 referred to in clause (a) of sub-rule (1) of rule 114C :

Provided that copies of declaration furnished in respect of transactions referred to in clause (f) of rule 114B shall not be furnished to the Director of Income-tax (Investigation) or Commissioner of Income-tax (Central Information Branch).

(2) The statement and copies of declaration in Form Nos. 60 and 61 referred to in sub-rule (1) shall be forwarded to the concerned Director of Income-tax (Investigation) or Commissioner of Income-tax (Central Information Branch) in two instalments, that is, the forms received up to 30th September, shall be forwarded latest by 31st October of that year and the declaration till the 31st March shall be furnished latest by 30th April of the same year.’

- (a) copies of declaration in Form No. 60 referred to in the second proviso to rule 114B;
- (b) copies of declaration in Form No. 61 referred to in the proviso to clause (a) of sub-rule (1) of rule 114C:

Provided that copies of declaration furnished in respect of transactions referred to in clause (f) of rule 114B shall not be furnished.

(2) The copies of declaration in Form No. 60 and Form No. 61 referred to in sub-rule (1) shall be forwarded to the Commissioner of Income-tax (Central Information Branch) in two instalments, that is, the forms received upto 30th September, shall be forwarded latest by 31st October of that year and the forms received upto 31st March shall be forwarded latest by 30th April of that year.]

⁹⁵**[Furnishing of Annual Information Return.**

114E. (1) The annual information return required to be furnished under sub-section (1) of section 285BA shall be furnished in Form No. 61A and shall be verified in the manner indicated therein.

95. Substituted by the IT (Twenty-first Amdt.) Rules, 2005, w.r.e.f. 1-12-2004. Prior to its substitution, rule 114E, as inserted by the IT (Seventeenth Amdt.) Rules, 2004, w.e.f. 1-12-2004, read as under :

"114E. *Furnishing of Annual Information Return.*—(1) The annual information return required to be furnished under sub-section (1) of section 285BA shall be furnished in Form No. 65 and shall be verified in the manner indicated therein.

(2) The return referred to in sub-rule (1) shall be furnished by every person mentioned in column (2) of the Table below in respect of all transactions of the nature and value specified in the corresponding entry in column (3) of the said Table, which are registered or recorded by him during a financial year beginning on or after the 1st day of April, 2004 :—

TABLE

<i>Sl.No.</i>	<i>Class of person</i>	<i>Nature and value of transaction</i>
(1)	(2)	(3)
1.	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).	Cash deposits aggregating to ten lakh rupees or more in a year in any savings account of a person maintained in that bank.
2.	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) or any other company or institution issuing credit card.	Payments made by any person against bills raised in respect of a credit card issued to that person, aggregating to two lakh rupees or more in the year.
3.	A trustee of a Mutual Fund or such other person managing the affairs of the Mutual Fund as may be duly authorised by the trustee in this behalf.	Receipt from any person of an amount of two lakh rupees or more for acquiring units of that Fund.

(Contd. on p. 1.272)

(2) The return referred to in sub-rule (1) shall be furnished by every person mentioned in column (2) of the Table below in respect of all transactions of the nature and value specified in the corresponding entry in column (3) of the said Table, which are registered or recorded by him during a financial year beginning on or after the 1st day of April, 2004:—

(Contd. from p. 1.271)

<i>Sl.No.</i>	<i>Class of person</i>	<i>Nature and value of transaction</i>
(1)	(2)	(3)
4.	A company or institution issuing bonds or debentures.	Receipt from any person of an amount of five lakh rupees or more for acquiring bonds or debentures issued by the company or institution.
5.	A company issuing shares through a public or rights issue.	Receipt from any person of an amount of one lakh rupees or more for acquiring shares issued by the company.
6.	Registrar or Sub-Registrar appointed under section 6 of the Registration Act, 1908.	Purchase or sale by any person of immovable property valued at thirty lakh rupees or more.
7.	A person being an officer of the Reserve Bank of India, constituted under section 3 of the Reserve Bank of India Act, 1934, who is duly authorized by the Reserve Bank of India in this behalf.	Receipt from any person of an amount or amounts aggregating to five lakh rupees or more in a year for bonds issued by the Reserve Bank of India.

(3) The return referred to in sub-rule (1) shall be furnished to the Commissioner of Income-tax (Central Information Branch):

Provided that where the Board has authorised an agency to receive such return on behalf of the Commissioner of Income-tax (Central Information Branch), the return shall be furnished to that agency.

(4)(a) The return comprising Part A and Part B of Form No. 65 referred to in sub-rule (1) shall be furnished on computer readable media being a floppy (3.5 inch and 1.44 MB capacity) or CD-ROM (650 MB or higher capacity) or Digital Video Disc (DVD), along with Part A thereof on paper.

(b) The person responsible for furnishing the return shall ensure that—

- (i) if the data relating to the return or statement is copied using data compression or backup software utility, the corresponding software utility or procedure for its decompression or restoration shall also be furnished along with the computer media return or statement;
- (ii) the return is accompanied with a certificate regarding clean and virus free data.

(5) The return referred to in sub-rule (1) shall be furnished on or before 31st August, immediately following the financial year in which the transaction is registered or recorded.

(6) The return referred to in sub-rule (1) shall be signed and verified by—

- (a) in a case where the person furnishing the return is an assessee as defined in clause (7) of section 2 of the Act, by a person specified in section 140 of the Act;
- (b) in any other case, by the person referred to in column (2) of the Table below sub-rule (2)."

TABLE

<i>Sl.No.</i>	<i>Class of person</i>	<i>Nature and value of transaction</i>
(1)	(2)	(3)
1.	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).	Cash deposits aggregating to ten lakh rupees or more in a year in any savings account of a person maintained in that bank.
2.	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) or any other company or institution issuing credit card.	Payments made by any person against bills raised in respect of a credit card issued to that person, aggregating to two lakh rupees or more in the year.
3.	A trustee of a Mutual Fund or such other person managing the affairs of the Mutual Fund as may be duly authorised by the trustee in this behalf.	Receipt from any person of an amount of two lakh rupees or more for acquiring units of that Fund.
4.	A company or institution issuing bonds or debentures.	Receipt from any person of an amount of five lakh rupees or more for acquiring bonds or debentures issued by the company or institution.
5.	A company issuing shares through a public or rights issue.	Receipt from any person of an amount of one lakh rupees or more for acquiring shares issued by the company.
6.	Registrar or Sub-Registrar appointed under section 6 of the Registration Act, 1908.	Purchase or sale by any person of immovable property valued at thirty lakh rupees or more.
7.	A person being an officer of the Reserve Bank of India, constituted under section 3 of the Reserve Bank of India Act, 1934, who is duly authorized by the Reserve Bank of India in this behalf.	Receipt from any person of an amount or amounts aggregating to five lakh rupees or more in a year for bonds issued by the Reserve Bank of India.

(3) The return referred to in sub-rule (1) shall be furnished to the ⁹⁶[Director] of Income-tax (Central Information Branch):

Provided that where the Board has authorised an agency⁹⁷ to receive such return on behalf of the ⁹⁶[Director] of Income-tax (Central Information Branch), the return shall be furnished to that agency.

96. Substituted for "Commissioner" by the IT (Eleventh Amdt.) Rules, 2008, w.e.f. 23-12-2008.

97. Authorised agency is NSDL.

(4)(a) The return comprising Part A and Part B of Form No. 61A referred to in sub-rule (1) shall be furnished on computer readable media being a floppy (3.5 inch and 1.44 MB capacity) or CD-ROM (650 MB or higher capacity) or Digital Video Disc (DVD), along with Part A thereof on paper :

Provided that a person responsible for furnishing the return, may, at his option, furnish the return through online transmission of electronic data to a server designated by the “Annual Information Return - Administrator” referred to in sub-rule (7) for this purpose under the digital signature of the person specified in sub-rule (6) :

Provided further that the return shall be prepared in accordance with the data structure specified by the “Annual Information Return - Administrator” referred to in sub-rule (7) in this regard.

(b) The person responsible for furnishing the return shall ensure that—

- (i) if the data relating to the return or statement is copied using data compression or backup software utility, the corresponding software utility or procedure for its decompression or restoration shall also be furnished along with the computer media return or statement;
- (ii) the return is accompanied by a certificate regarding clean and virus free data.

Explanation.—For the purposes of this sub-rule, “digital signature” means a digital signature issued by any Certifying Authority authorised to issue such certificates by the Controller of Certifying Authorities.

(5) The return referred to in sub-rule (1) shall be furnished on or before 31st August, immediately following the financial year in which the transaction is registered or recorded.

(6) The return referred to in sub-rule (1) shall be signed and verified by—

- (a) in a case where the person furnishing the return is an assessee as defined in clause (7) of section 2 of the Act, by a person specified in section 140 of the Act;
- (b) in any other case, by the person referred to in column (2) of the Table below sub-rule (2).

(7) The Board may appoint an officer designated as Annual Information Return - Administrator⁹⁸, not below the rank of the Commissioner of Income-tax for the purposes of day-to-day administration of furnishing of the Annual Information Return including specification of the procedures, data structure, formats and standards for ensuring secure capture and transmission of data, evolving and implementing appropriate security, archival and retrieval policies.]

98. Designated officer is Director General of Income-tax (Systems), New Delhi.

⁹⁹[**Rate of exchange for conversion into rupees of income expressed in foreign currency.**²

115. ³[(1)] The rate of exchange for the calculation of the value in rupees of any income accruing or arising or deemed to accrue or arise to the assessee in foreign currency or received or deemed to be received by him or on his behalf in foreign currency shall be the telegraphic transfer buying rate of such currency as on the specified date.

Explanation : For the purposes of this rule,—

- (1) “telegraphic transfer buying rate” shall have the same meaning as in the *Explanation* to rule 26;
- (2) “specified date” means—
 - (a) in respect of income chargeable under the head “Salaries”, the last day of the month immediately preceding the month in which the salary is due, or is paid in advance or in arrears;
 - (b) in respect of income ⁴[by way of] “interest on securities”, the last day of the month immediately preceding the month in which the income is due;
 - (c) in respect of income chargeable under the heads “Income from house property”, “Profits and gains of business or profession” [not being income referred to in clause (d)] and “Income from other sources” (not being income by way of dividends ⁵[and “Interest on securities”]), the last day of the previous year of the assessee;
 - (d) in respect of income chargeable under the head “Profits and gains of business or profession” in the case of a non-resident engaged in the business of operation of ships, the last day of the month immediately preceding the month in which such income is deemed to accrue or arise in India ;

99. Substituted by the IT (Eighth Amdt.) Rules, 1977, w.e.f. 1-11-1977. Rule 115 was first substituted by the IT (Third Amdt.) Rules, 1967 and later amended by the IT (Second Amdt.) Rules, 1968.

1. See section 192(6).

2. On application and interpretation of rule 115, see *CIT v. Chowgule & Co. Ltd.* [1996] 84 Taxman 623 (SC). Where sale consideration was received in Indian currency and then converted into US currency for remittance to seller, rule 115 will not apply.—*CIT v. E.R. Squibb & Sons* [1999] 235 ITR 1 (Bom.). Rule 115 applies also to remittances made outside India—*Director of Income-tax, International Taxation v. Dumez Sogea Borie SAE* [2002] 120 Taxman 800/257 ITR 576 (Delhi). The word ‘income’ in rule 115 cannot be equated with gross receipts. It is not the mandate of the Act that business income should necessarily be computed in Indian rupee. If a foreign company is working in India and is receiving as well as spending in foreign exchange, computation of income can be done in foreign exchange and in the process allowance as per the Act has to be allowed in terms of that foreign exchange only. The income so finally worked out should then be converted into Indian rupees at the prevailing exchange rate on the specified date, viz., the last day of the accounting period. However, where foreign exchange has already been received by the assessee in the Indian bank account, rule 115 will not apply - *Dy. CIT v. Hollandsche Aanneming Maatschappij* [2007] 107 TTJ (Mum. - Trib.) 268. For details, see Taxmann’s Master Guide to Income-tax Rules.

3. Inserted by the IT (Seventh Amdt.) Rules, 1990, w.e.f. 1-4-1990.

4. Substituted for “chargeable under the head” by the IT (Fifth Amdt.) Rules, 1989, w.e.f. 18-5-1989.

5. Inserted, *ibid.*

- (e) in respect of income by way of dividends, the last day of the month immediately preceding the month in which the dividend is declared, distributed or paid by the company;
- (f) in respect of income chargeable under the head “Capital gains”, the last day of the month immediately preceding the month in which the capital asset is transferred :]

⁶[**Provided** that the specified date, in respect of income referred to in sub-clauses (a) to (f) payable in foreign currency and from which tax has been deducted at source under rule 26, shall be ⁷[the date on which the tax was required to be deducted] under the provisions of the Chapter XVII-B.]

⁸[(2) Nothing contained in sub-rule (1) shall apply in respect of income referred to in clause (c) of the *Explanation* to sub-rule (1) where such income is received in, or brought into India by the assessee or on his behalf before the specified date in accordance with the provisions of the Foreign Exchange Regulation Act, 1973 (46 of 1973).⁹]

¹⁰[**Rate of exchange for conversion of rupees into foreign currency and reconversion of foreign currency into rupees for the purpose of computation of capital gains under the proviso to clause (a) of sub-section (1) of section 48 of the Income-tax Act, 1961.**

115A. For the purpose of computing capital gains arising from the transfer of a capital asset being shares in, or debentures of, an Indian company, in the case of an assessee who is a non-resident Indian, the rate of exchange shall be :—

- (a) for converting the cost of acquisition of the capital asset, the average of the telegraphic transfer buying rate and telegraphic transfer selling rate of the foreign currency initially utilised in the purchase of the said asset, as on the date of its acquisition;
- (b) for converting expenditure incurred wholly and exclusively in connection with the transfer of the capital asset referred to in clause (a), the average of the telegraphic transfer buying rate and telegraphic transfer selling rate of the foreign currency initially utilised in the purchase of the said asset, as on the date of transfer of the capital asset;
- (c) for converting the full value of consideration received or accruing as a result of the transfer of the capital asset referred to in clause (a), the average of the telegraphic transfer buying rate and telegraphic transfer selling rate of the foreign currency initially utilised in the purchase of the said asset, as on the date of transfer of the capital asset;
- (d) for reconverting capital gains computed in the foreign currency initially utilised in the purchase of the capital asset into rupees, the telegraphic

6. Inserted by the IT (Ninth Amdt.) Rules, 1993, w.e.f. 25-5-1993.

7. Substituted for “the date on which the tax has been so deducted” by the IT (Third Amdt.) Rules, 1995, w.e.f. 9-5-1995.

8. Inserted by the IT (Seventh Amdt.) Rules, 1990, w.e.f. 1-4-1990.

Rule 115(2) is not *ultra vires* of the substantive provisions of the Act. It is really clarificatory, and does not bring about any change in rule 115—*CIT v. Chowgule & Co. Ltd.* [1996] 84 Taxman 623 (SC). For details, see Taxmann’s Master Guide to Income-tax Rules.

9. Now Foreign Exchange Management Act, 1999.

10. Inserted by the IT (Fourth Amdt.) Rules, 1991, w.e.f. 1-4-1990.

transfer buying rate of such currency, as on the date of transfer of the capital asset.

Explanation : For the purposes of this rule—

- (i) “telegraphic transfer buying rate” shall have the same meaning as in the *Explanation* to rule 26;
- (ii) “telegraphic transfer selling rate”, in relation to a foreign currency, means the rate of exchange adopted by the State Bank of India constituted under the State Bank of India Act, 1955 (23 of 1955), for selling such currency where such currency is made available by that bank through telegraphic transfer.]

Return of interest paid.

¹¹116. [Omitted by the IT (Fifth Amdt.) Rules, 1989, w.e.f. 18-5-1989.]

Return of dividends paid.

¹²117. [Omitted by the IT (Fifth Amdt.) Rules, 1989, w.e.f. 18-5-1989.]

¹³[Reduction or waiver of interest payable under section 139.

117A. ¹⁴[In respect of assessment relating to an assessment year commencing on or before the first day of April, 1988, the Assessing Officer] may reduce or waive the interest payable under section 139 in the cases and in the circumstances mentioned below, namely :—

- (i) where the return of income is furnished by a person who has been treated under section 163 as an agent of a non-resident and is assessed in respect of the latter’s income ;
- (ii) where the return of income is furnished by an assessee whose only source of income during the relevant previous year is a share in the income of an unregistered firm which has been assessed on its total income in respect of that previous year under clause (b) of section 183;
- (iii) where the return of income of a deceased individual is furnished by his legal representative and the legal representative satisfies the ¹⁵[Assessing Officer] that he had sufficient cause for not furnishing such return within time;
- (iv) where the return of income has been furnished in pursuance of a notice issued under section 148;

11. Prior to its omission, rule 116, as amended by the IT (Ninth Amdt.) Rules, 1977, w.e.f. 1-4-1978, stood as under :

“116. (1) A return shall be furnished under section 285 by the person responsible for paying interest, not being interest on securities, in respect of amounts of interest or aggregate interest exceeding Rs. 1,000.

(2) The return referred to in sub-rule (1) shall be made in Form No. 50.”

12. Prior to its omission, rule 117 read as under :

“117. (1) A return shall be furnished by the principal officer of a company under section 286 in respect of a dividend or aggregate dividends if the amount thereof exceeds one rupee in the case of a shareholder which is a company and in respect of dividend or aggregate dividends if the amount thereof exceeds Rs. 5,000 in the case of any other shareholder.

(2) The return referred to in sub-rule (1) shall be made in Form No. 51 and shall be delivered to the Income-tax Officer, who assesses the company.”

13. Inserted by the IT (Second Amdt.) Rules, 1964.

14. Substituted for “The Income-tax Officer” by the IT (Fifth Amdt.) Rules, 1989, w.e.f. 18-5-1989.

15. Substituted for “Income-tax Officer”, *ibid.*, w.r.e.f. 1-4-1988.

- (v) any case in which the assessee produces evidence to the satisfaction of the ¹⁶[Assessing Officer] that he was prevented by sufficient cause from furnishing the return within time :

Provided that the previous approval of the ¹⁷[Deputy Commissioner] has been obtained where the amount of interest reduced or waived, as the case may be, under clause (iv) or clause (v) exceeds one thousand rupees.

¹⁸**[Form of statement under section 222 or section 223.**

117B. A statement under section 222 or section 223 shall be drawn up by the Tax Recovery Officer in Form No. 57.]

¹⁹**[Tax Recovery Officer to exercise or perform certain powers and functions of an Assessing Officer.**

117C. (1) The Chief Commissioner or the Commissioner, by general or special order in writing, may authorise a Tax Recovery Officer to exercise or perform the powers and functions conferred on or assigned to an Assessing Officer under section 154 for rectifying any mistake apparent from record in respect of an order passed by the Assessing Officer consequent to which a sum is payable and the Tax Recovery Officer has drawn a Certificate under section 222 in respect of such sum.

(2) The Tax Recovery Officer shall exercise or perform such powers and functions concurrently with the Assessing Officer.]

Levy of interest under section 220(2) where a recovery certificate is not issued.

²⁰**118.** [Omitted by the IT (Eleventh Amdt.) Rules, 1989, w.e.f. 30-11-1989.]

16. Substituted for "Income-tax Officer" by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988.

17. Substituted for "Inspecting Assistant Commissioner", *ibid*.

18. Inserted by the IT (Eleventh Amdt.) Rules, 1989, w.e.f. 30-11-1989.

Section 222 does not violate article 14 of the Constitution - *K. Jagadish Mitter v. Revenue Divisional Commissioner* [1976] 102 ITR 689 (Ori.) (FB). Section 222 and Second Schedule provide a complete procedure for recovery of tax; provisions of any other Act cannot be enforced for recovery of tax - *Gourishankar v. Certificate Officer* [1971] 82 ITR 955 (Ori.). ITO can take recourse to both sections 222 and 226(4) concurrently - *ITO v. Manmohanlal* [1987] 168 ITR 56 (Ori.). Recovery proceedings once begun must be proceeded with reasonable expedition - *Mohd. Ibrahim Khan v. Union of India* [1985] 155 ITR 10 (AP). Certificate can be issued for recovery of advance tax - *Union of India v. Sikri & Sons* [1978] 112 ITR 529 (Cal.). Where certificate has been issued during lifetime of defaulter, recovery proceedings can be continued against legal representative after defaulter's death - *Mariam Misria v. TRO* [1995] 211 ITR 807 (Mad.). For details, see Taxmann's Master Guide to Income-tax Rules.

19. Inserted by the IT (Eleventh Amdt.) Rules, 2007, w.e.f. 16-10-2007.

20. Prior to its omission, rule 118, as amended by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988, read as under :

"118. (1) Subject to the provision of rule 119 and sub-rule (2) of this rule, the Assessing Officer shall calculate the interest payable under sub-section (2) of section 220 at the end of each financial year if the amount of tax, penalty or other sum in respect of which such interest is payable has not been paid in full before the end of any such financial year and a notice of demand under section 156 shall be issued accordingly.

(2) Subject to the provisions of rule 119, if the amount of tax, penalty or other sum in respect of which such interest is payable is paid up before the end of any financial year, the Assessing Officer shall calculate the interest payable under sub-section (2) of section 220 up to the date on which the payment of such tax, penalty or other sum is completed and a notice of demand under section 156 shall be issued accordingly."

Levy of interest under section 220(2) in a case where a recovery certificate is issued.

²¹**119.** [Omitted by the IT (Eleventh Amdt.) Rules, 1989, w.e.f. 30-11-1989.]

Procedure to be followed in calculating interest.

²²²³**119A.** In calculating the interest payable by the assessee or the interest payable by the Central Government to the assessee under any provision of the Act,—

- (a) where interest is to be calculated on annual basis, the period for which such interest is to be calculated shall be rounded off to a whole month or months and for this purpose any fraction of a month shall be ignored; and the period so rounded off shall be deemed to be the period in respect of which the interest is to be calculated;
- (b) where the interest is to be calculated for every month or part of a month comprised in a period, any fraction of a month shall be deemed to be a full month and the interest shall be so calculated;
- (c) the amount of tax, penalty or other sum in respect of which such interest is to be calculated shall be rounded off to the nearest multiple of one hundred rupees and for this purpose any fraction of one hundred rupees shall be ignored and the amount so rounded off shall be deemed to be the amount in respect of which the interest is to be calculated.]

21. Prior to its omission, rule 119, as amended by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988, read as under :

“119. (1) At the time of issuing a certificate under section 222, the Assessing Officer shall calculate the interest payable under sub-section (2) of section 220 on the amount of arrears of tax, penalty or other sum up to the date of the issue of the certificate.

(2) The amount of interest calculated under sub-rule (1) as reduced by the amount of such interest, if any, paid by the assessee before the issue of the certificate shall be indicated in the certificate issued by the Assessing Officer.

(3) The amount of interest referred to in sub-rule (2) and the further interest similarly calculated for the period commencing immediately after the date of the issue of the certificate, shall be recoverable from the defaulter along with the amount of tax, penalty or other sum mentioned in the certificate.”

22. Substituted by the IT (Tenth Amdt.) Rules, 1989, w.e.f. 13-9-1989. Prior to its substitution, rule 119A, as inserted by the IT (Sixth Amdt.) Rules, 1974, w.e.f. 1-1-1975, read as under :

“119A. In calculating the interest payable by the assessee or the interest payable by the Central Government to the assessee under any provision of the Act,—

- (a) the period for which such interest is to be calculated shall be rounded off to a whole month or months and for this purpose any fraction of a month shall be ignored; and the period so rounded off shall be deemed to be the period in respect of which the interest is to be calculated;
- (b) the amount of tax, penalty or other sum in respect of which such interest is to be calculated shall be rounded off to the nearest multiple of one hundred rupees and for this purpose any fraction of one hundred rupees shall be ignored; and the amount so rounded off shall be deemed to be the amount in respect of which the interest is to be calculated.”

23. See section 295(2)(kk).

Form for furnishing particulars by contractor.

²⁴**120.** [Omitted by the IT (Fifth Amdt.) Rules, 1989, w.e.f. 18-5-1989. Earlier, it was inserted by the IT (Amdt.) Rules, 1965.]

Procedure for imposition of fine.

²⁵**121.** [Omitted by the IT (Fifth Amdt.) Rules, 1989, w.e.f. 18-5-1989. Earlier, it was inserted by the IT (Amdt.) Rules, 1965.]

²⁶²⁷**Form of statement to be furnished by producer of cinematograph films.**

121A. The statement required to be furnished under section 285B by a person carrying on production of cinematograph films shall be in Form No. 52A.]

Notice in respect of properties held benami.

²⁸**122.** [Omitted by the IT (Fifth Amdt.) Rules, 1989, w.e.f. 18-5-1989.]

²⁹**[Application for obtaining certified copies of certain notices.**

123. An application to the ³⁰[Chief Commissioner or Commissioner] under sub-section (2) of section 281A³¹ for furnishing a certified copy of the notice given under sub-section (1) or sub-section (1A) or sub-section (1B) of that section shall be made in Form No. 54.]

³²**[Fees for obtaining certified copy of notice.**

124. Fees to be paid for the issue of a certified copy of the notice given under sub-section (1) or sub-section (1A) or sub-section (1B) of section 281A³³ shall be two rupees for every such copy.]

24. Prior to its omission, rule 120 read as under :

“120. The particulars required to be furnished under sub-section (1) of section 285A by a contractor shall be in Form No. 52.”

25. Prior to its omission, rule 121 read as under :

“121. No order imposing a fine under sub-section (2) of section 285A shall be made unless the contractor has been given a reasonable opportunity of being heard.”

26. Inserted by the IT (Third Amdt.) Rules, 1976, w.e.f. 1-4-1976.

27. See section 295(2)(mma).

28. Prior to its omission, rule 122, as inserted by the IT (Fourth Amdt.) Rules, 1972, w.e.f. 15-11-1972 and amended by the IT (Second Amdt.) Rules, 1984, w.e.f. 24-7-1984, stood as under :
“122. The notice to be given to the Commissioner under sub-section (1) or sub-section (1A) or sub-section (1B) of section 281A by a person claiming to be the real owner of any property held *benami* shall be in Form No. 53.”

29. Substituted by the IT (Second Amdt.) Rules, 1984, w.e.f. 24-7-1984. Originally, it was inserted by the IT (Fourth Amdt.) Rules, 1972, w.e.f. 15-11-1972.

30. Substituted for “Commissioner” by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988.

31. Section 281A has since been repealed by the Benami Transactions (Prohibition) Act, 1988, w.e.f. 19-5-1988.

32. Substituted by the IT (Second Amdt.) Rules, 1984, w.e.f. 24-7-1984. Originally, it was inserted by the IT (Fourth Amdt.) Rules, 1972, w.e.f. 15-11-1972.

33. Section 281A has since been repealed by the Benami Transactions (Prohibition) Act, 1988, w.e.f. 19-5-1988.

³⁴[**Electronic payment of tax**³⁵.

125. (1) The following persons shall pay tax electronically on or after the 1st day of April, 2008:—

- (a) a company; and
- (b) a person (other than a company), to whom the provisions of section 44AB are applicable.

(2) For the purposes of this rule :—

- (a) “pay tax electronically” shall mean, payment of tax by way of—
 - (i) internet banking facility of the authority bank; or
 - (ii) credit or debit cards;
- (b) the word “tax” shall have the meaning as assigned to it in clause (43) of section 2 of the Act and shall include interest and penalty.]

34. Inserted by the IT (Fourth Amdt.) Rules, 2008, w.e.f. 13-3-2008. Earlier rule 125 was inserted by the IT (Sixth Amdt.) Rules, 1989, w.e.f. 1-4-1989 and later on omitted by the IT (Thirty-second Amdt.) Rules, 1999, w.e.f. 19-11-1999.

35. Circular No. 5/2008, dated 14-7-2008 provides that with a view to facilitating electronic payment of taxes by different categories of taxpayers, it is clarified that an assessee can make electronic payment of taxes also from the account of any other person. However, the challan for making such payment must clearly indicate the Permanent Account Number (PAN) of the assessee on whose behalf the payment is made. It is not necessary for the assessee to make payment of taxes from his own account in an authorized bank. Further, it is also clarified that payment of any amount by a deductor by way of tax deducted at source (TDS) or tax collected at source (TCS) shall fall within the meaning of ‘tax’ for the purpose of rule 125.

¹[**NEW APPENDIX I**
[Effective from assessment year 2006-07 onwards]]

[See rule 5]

TABLE OF RATES AT WHICH DEPRECIATION IS ADMISSIBLE

<i>Block of assets</i>	<i>Depreciation allowance as percentage of written down value</i>
<i>1</i>	<i>2</i>

PART A

TANGIBLE ASSETS

I. Building [See Notes 1 to 4 below this Table]

- | | |
|---|-----|
| (1) Buildings which are used mainly for residential purposes except hotels and boarding houses | 5 |
| (2) Buildings other than those used mainly for residential purposes and not covered by sub-items (1) above and (3) below | 10 |
| (3) Buildings acquired on or after the 1st day of September, 2002 for installing machinery and plant forming part of water supply project or water treatment system and which is put to use for the purpose of business of providing infrastructure facilities under clause (i) of sub-section (4) of section 80-IA | 100 |
| (4) Purely temporary erections such as wooden structures | 100 |

II. Furniture and fittings

- | | |
|---|----|
| Furniture and fittings including electrical fittings
[See Note 5 below this Table] | 10 |
|---|----|

III. Machinery and Plant

- | | |
|---|----|
| (1) Machinery and plant other than those covered by sub-items (2), (3) and (8) below : | 15 |
| (2) Motor cars, other than those used in a business of running them on hire, acquired or put to use on or after the 1st day of April, 1990 | 15 |
| (3) (i) Aeroplanes - Aeroengines | 40 |
| (ii) Motor buses, motor lorries and motor taxis used in a business of running them on hire | 30 |
| (iii) Commercial vehicle which is acquired by the assessee on or after the 1st day of October, 1998, but before the 1st day of April, 1999 and is put to use for any period before the 1st day of April, 1999 for the purposes of business or profession in accordance with the third proviso to clause (ii) of sub-section (1) of section 32 [See Note 6 below this Table] | 40 |
| (iv) New commercial vehicle which is acquired on or after the 1st day of October, 1998, but before the 1st day of April, 1999 in replacement of condemned vehicle of over 15 years of age and is put to use for any period before the 1st day of April, 1999 for the | |

1. Substituted by the IT (Sixth Amdt.) Rules, 2005, w.e.f. 2-4-2005.

For relevant Case Laws, see Taxmann's Master Guide to Income-tax Rules.

<i>1</i>	<i>2</i>
purposes of business or profession in accordance with the third proviso to clause (ii) of sub-section (1) of section 32 [See Note 6 below this Table]	60
(v) New commercial vehicle which is acquired on or after the 1st day of April, 1999 but before the 1st day of April, 2000 in replacement of condemned vehicle of over 15 years of age and is put to use before the 1st day of April, 2000 for the purposes of business or profession in accordance with the second proviso to clause (ii) of sub-section (1) of section 32 [See Note 6 below this Table]	60
(vi) New commercial vehicle which is acquired on or after the 1st day of April, 2001 but before the 1st day of April, 2002 and is put to use before the 1st day of April, 2002 for the purposes of business or profession [See Note 6 below this Table]	50
² [(via) New commercial vehicle which is acquired on or after the 1st day of January, 2009 but before the 1st day of ³ [October], 2009 and is put to use before the 1st day of ³ [October], 2009 for the purposes of business or profession [See paragraph 6 of the Notes below this Table]	50]
(vii) Moulds used in rubber and plastic goods factories	30
(viii) Air pollution control equipment, being—	
(a) Electrostatic precipitation systems	
(b) Felt-filter systems	
(c) Dust collector systems	
(d) Scrubber-counter current/venturi/packed bed/cyclonic scrubbers	100
(e) Ash handling system and evacuation system	
(ix) Water pollution control equipment, being—	
(a) Mechanical screen systems	
(b) Aerated detritus chambers (including air compressor)	
(c) Mechanically skimmed oil and grease removal systems	
(d) Chemical feed systems and flash mixing equipment	
(e) Mechanical flocculators and mechanical reactors	
(f) Diffused air/mechanically aerated activated sludge systems	
(g) Aerated lagoon systems	100
(h) Biofilters	
(i) Methane-recovery anaerobic digester systems	
(j) Air floatation systems	
(k) Air/steam stripping systems	
(l) Urea Hydrolysis systems	
(m) Marine outfall systems	
(n) Centrifuge for dewatering sludge	
(o) Rotating biological contractor or bio-disc	
(p) Ion exchange resin column	
(q) Activated carbon column	

2. Inserted by the IT (Third Amdt.) Rules, 2009, w.e.f. 1-4-2009.

3. Substituted for "April" by the IT (Eleventh Amdt.) Rules, 2009, w.e.f. 1-4-2010.

<i>1</i>	<i>2</i>
(x) (a) Solidwaste, control equipment being - caustic/lime/ chrome/mineral/cryolite recovery systems	100
(b) Solidwaste recycling and resource recovery systems	
(xi) Machinery and plant, used in semi-conductor industry covering all Integrated Circuits (ICs) (excluding hybrid integrated circuits) ranging from Small Scale Integration (SSI) to Large Scale Inte- gration/Very Large Scale Integration (LSI/VLSI) as also discrete semi-conductor devices such as diodes, transistors, thy- ristors, triacs, etc., other than those covered by entries (viii), (ix) and (x) of this sub-item and sub-item (8) below.	30
(xia) Life saving medical equipment, being—	40
(a) D.C. Defibrillators for internal use and pace makers	
(b) Haemodialysors	
(c) Heart lung machine	
(d) Cobalt Therapy Unit	
(e) Colour Doppler	
(f) SPECT Gamma Camera	
(g) Vascular Angiography System including Digital Subtrac- tion Angiography	
(h) Ventilator used with anaesthesia apparatus	
(i) Magnetic Resonance Imaging System	
(j) Surgical Laser	
(k) Ventilator other than those used with anaesthesia	
(l) Gamma knife	
(m) Bone Marrow Transplant Equipment including silastic long standing intravenous catheters for chemotherapy	
(n) Fibre optic endoscopes including, Paediatric resectoscope/ audit resectoscope, Peritoneoscopes, Arthroscope, Microlaryngoscope, Fibreoptic Flexible Nasal Pharyngo Bronchoscope, Fibreoptic Flexible Laryngo Bronchoscope, Video Laryngo Bronchoscope and Video Oesophago Gastroscope, Stroboscope, Fibreoptic Flexible Oesophago Gastroscope	
(o) Laparoscope (single incision)	
(4) Containers made of glass or plastic used as re-fills	50
(5) Computers including computer software (<i>See Note 7 below this Table</i>)	60
(6) Machinery and plant, used in weaving, processing and garment sector of textile industry, which is purchased under TUFS on or after the 1st day of April, 2001 but before the 1st day of April, 2004 and is put to use before the 1st day of April, 2004 [<i>See Note 8 below this Table</i>]	50
(7) Machinery and plant, acquired and installed on or after the 1st day of September, 2002 in a water supply project or a water treatment system and which is put to use for the purpose of business of providing	

<i>1</i>	<i>2</i>	
infrastructure facility under clause (i) of sub-section (4) of section 80-IA [See Notes 4 and 9 below this Table]	100	
(8) (i) Wooden parts used in artificial silk manufacturing machinery	}	
(ii) Cinematograph films - bulbs of studio lights		
(iii) Match factories - Wooden match frames		
(iv) Mines and quarries :		
(a) Tubs winding ropes, haulage ropes and sand stowing pipes	100	
(b) Safety lamps	}	
(v) Salt works - Salt pans, reservoirs and condensers, etc., made of earthy, sandy or clayey material or any other similar material		
(vi) Flour mills - Rollers		
(vii) Iron and steel industry - Rolling mill rolls		80
(viii) Sugar works - Rollers	}	
(ix) Energy saving devices, being—		
A. Specialised boilers and furnaces :		}
(a) Ignifluid/fluidized bed boilers		
(b) Flameless furnaces and continuous pusher type furnaces	80	
(c) Fluidized bed type heat treatment furnaces		
(d) High efficiency boilers (thermal efficiency higher than 75 per cent in case of coal fired and 80 per cent in case of oil/gas fired boilers)	}	
B. Instrumentation and monitoring system for monitoring energy flows :		
(a) Automatic electrical load monitoring systems		}
(b) Digital heat loss meters		
(c) Micro-processor based control systems		
(d) Infra-red thermography	80	
(e) Meters for measuring heat losses, furnace oil flow, steam flow, electric energy and power factor meters	}	
(f) Maximum demand indicator and clamp on power meters		
(g) Exhaust gases analyzer		
(h) Fuel oil pump test bench		
C. Waste heat recovery equipment:	}	
(a) Economisers and feed water heaters		
(b) Recuperators and air pre-heaters		
(c) Heat pumps		80
(d) Thermal energy wheel for high and low temperature waste heat recovery		

1	2
D. Co-generation systems:	
(a) Back pressure pass out, controlled extraction, extraction-cum-condensing turbines for co-generation along with pressure boilers	
(b) Vapour absorption refrigeration systems	80
(c) Organic rankine cycle power systems	
(d) Low inlet pressure small steam turbines	
E. Electrical equipment:	
(a) Shunt capacitors and synchronous condenser systems	
(b) Automatic power cut-off devices (relays) mounted on individual motors	
(c) Automatic voltage controller	
(d) Power factor controller for AC motors	
(e) Solid state devices for controlling motor speeds	
(f) Thermally energy-efficient stenters (which require 800 or less kilocalories of heat to evaporate one kilogram of water)	
(g) Series compensation equipment	80
(h) Flexible AC Transmission (FACT) devices - Thyristor controlled series compensation equipment	
(i) Time of Day (ToD) energy meters	
(j) Equipment to establish transmission highways for National Power Grid to facilitate transfer of surplus power of one region to the deficient region	
(k) Remote terminal units/intelligent electronic devices, computer hardware/software, router/bridges, other required equipment and associated communication systems for supervisory control and data acquisition systems, energy management systems and distribution management systems for power transmission systems	
(l) Special energy meters for Availability Based Tariff (ABT)	
F. Burners:	
(a) 0 to 10 per cent excess air burners	
(b) Emulsion burners	80
(c) Burners using air with high pre-heat temperature (above 300°C)	

<i>1</i>	<i>2</i>
G. Other equipment :	
(a) Wet air oxidation equipment for recovery of chemicals and heat	
(b) Mechanical vapour recompressors	
(c) Thin film evaporators	
(d) Automatic micro-processor based load demand controllers	80
(e) Coal based producer gas plants	
(f) Fluid drives and fluid couplings	
(g) Turbo charges/super-charges	
(h) Sealed radiation sources for radiation processing plants	
(x) Gas cylinders including valves and regulators	60
(xi) Glass manufacturing concerns - Direct fire glass melting furnaces	60
(xii) Mineral oil concerns:	
(a) Plant used in field operations (above ground) distribution - Returnable packages	60
(b) Plant used in field operations (below ground), but not including kerbside pumps including underground tanks and fittings used in field operations (distribution) by mineral oil concerns	
(xiii) Renewable energy devices being —	
(a) Flat plate solar collectors	
(b) Concentrating and pipe type solar collectors	
(c) Solar cookers	
(d) Solar water heaters and systems	
(e) Air/gas/fluid heating systems	
(f) Solar crop driers and systems	
(g) Solar refrigeration, cold storages and air conditioning systems	80
(h) Solar steels and desalination systems	
(i) Solar power generating systems	
(j) Solar pumps based on solar-thermal and solar-photovoltaic conversion	
(k) Solar-photovoltaic modules and panels for water pumping and other applications	
(l) Wind mills and any specially designed devices which run on wind mills	
(m) Any special devices including electric generators and pumps running on wind energy	

<i>1</i>	<i>2</i>
(<i>n</i>) Biogas-plant and biogas-engines	
(<i>o</i>) Electrically operated vehicles including battery powered or fuel-cell powered vehicles	80
(<i>p</i>) Agricultural and municipal waste conversion devices producing energy	
(<i>q</i>) Equipment for utilising ocean waste and thermal energy	
(<i>r</i>) Machinery and plant used in the manufacture of any of the above sub-items	
(9) (<i>i</i>) Books owned by assessee carrying on a profession—	
(<i>a</i>) Books, being annual publications	100
(<i>b</i>) Books, other than those covered by entry (<i>a</i>) above	60
(<i>ii</i>) Books owned by assessee carrying on business in running lending libraries	100
IV. Ships	
(1) Ocean-going ships including dredgers, tugs, barges, survey launches and other similar ships used mainly for dredging purposes and fishing vessels with wooden hull	20
(2) Vessels ordinarily operating on inland waters, not covered by sub-item (3) below	20
(3) Vessels ordinarily operating on inland waters being speed boats [See Note 10 below this Table]	20

PART B

INTANGIBLE ASSETS

Know-how, patents, copyrights, trademarks, licences, franchises or any other business or commercial rights of similar nature	25
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Notes:

1. "Buildings" include roads, bridges, culverts, wells and tubewells.
2. A building shall be deemed to be a building used mainly for residential purposes, if the built up floor area thereof used for residential purposes is not less than sixty-six and two-third per cent of its total built-up floor area and shall include any such building in the factory premises.
3. In respect of any structure or work by way of renovation or improvement in or in relation to a building referred to in *Explanation 1* of clause (*ii*) of sub-section (1) of section 32, the percentage to be applied will be the percentage specified against sub-item (1) or (2) of item 1 as may be appropriate to the class of building in or in relation to which the renovation or improvement is effected. Where the structure is constructed or the work is done by way of extension of any such building, the percentage to be applied would be such percentage as would be appropriate, as if the structure or work constituted a separate building.
4. Water treatment system includes system for desalination, demineralisation and purification of water.

[OLD APPENDIX I**[Applicable for assessment years 2003-04 to 2005-06]**

[See rule 5]

TABLE OF RATES AT WHICH DEPRECIATION IS ADMISSIBLE

<i>Block of assets</i>	<i>Depreciation allowance as percentage of written down value</i>
1	2
<u>PART A</u>	
TANGIBLE ASSETS	
²I. BUILDING [See Notes 1 to 4 below the Table]	
(1) Buildings which are used mainly for residential purposes except hotels and boarding houses	5
(2) Buildings other than those used mainly for residential purposes and not covered by sub-items (1) above and (3) below	10
(3) Buildings acquired on or after the 1st day of September, 2002 for installing machinery and plant forming part of water supply project or water treatment system and which is put to use for the purpose of business of providing infrastructure facilities under clause (i) of sub-section (4) of section 80-IA	100
(4) Purely temporary erections such as wooden structures	100
³II. FURNITURE AND FITTINGS	
Furniture and fittings including electrical fittings [See Note 5 below the Table]	15

- Substituted by the IT (Twenty-fourth Amdt.) Rules, 2002, w.e.f. 1-4-2003 (effective from the assessment years 2003-04 to 2005-06). Old Appendix I (effective for assessment year 1988-89 to assessment year 2002-03) and Old Appendix I (effective for assessment year 1984-85 to assessment year 1987-88) are given respectively at the end of this new Appendix I for the benefit of those who would like to refer them for the earlier assessment years.
- Roads within factory premises linking various buildings and approach roads are 'building'. 'Fencing' and 'drains' will also be part of 'building' - *CIT v. Gwalior Rayon Silk Mfg. Co. Ltd.* [1992] 196 ITR 149/62 Taxman 471 (SC); see also *CIT v. Gujarat State Fertiliser Co.* [2002] 123 Taxman 651 (Guj.)/*Indian Aluminium Co. Ltd. v. CIT* [1980] 122 ITR 660 (Cal.); where there was no other construction except roads, such roads would not constitute 'building' - *Indore Municipal Corporation v. CIT* [2001] 247 ITR 803/[2002] 124 Taxman 128 (SC). 'Building' does not include the land or site on which it is built - *CIT v. Alps Theatre* [1967] 65 ITR 377 (SC). Driveways and compound walls to petrol pumps would be part of 'building' - *CIT v. Indo-Burma Petroleum Co. Ltd.* [1978] 112 ITR 755 (Cal.); overhead water tank is an integral part of building, but can be classified as 'plant' if there is a direct connection between the tank and any plant - *CIT v. Modi Industries Ltd. (No. 1)* [1992] 197 ITR 517 (Delhi); shed constructed for growing mushrooms is a 'building' - *Blue Mountain Food Products Ltd. v. ITO* [1985] 14 ITD 254 (Bang.); Hotels/cinema houses are 'buildings' and not 'plant' - *CIT v. Anand Theatres* [2000] 244 ITR 192 (SC).
- Models of ships displayed in business premises of marine serving company constitute 'furniture' - *J.B. Boda Marine & General Survey Agencies (P.) Ltd. v. Sixth ITO* [1985] 13 ITD 347 (Bom.); Paintings used as decorations are part of furniture and fittings - *Burnside Investments & Holdings Ltd. v. Dy. CIT* [1997] 61 ITD 501 (Mad.); Partitions and false ceilings in cinema theatres are 'fittings' - *CIT v. Indian Metal & Metallurgical Corporation* [1983] 141 ITR 40 (Mad.)/*CIT v. N.L. Mehta Cinema Enterprises (P.) Ltd.* [1993] 71 Taxman 443 (Bom.). For cinema theatre, chairs used inside the auditorium are 'plant', but not the chairs used outside the auditorium - *Santosh Enterprises v. CIT* [1993] 200 ITR 353 (Kar.).

1	2
III. MACHINERY AND PLANT	
(1) Machinery and plant other than those covered by sub-items (2), (3) and (8) below :	25
⁴ (2) Motor cars, other than those used in a business of running them on hire, acquired or put to use on or after the 1st day of April, 1990	20
(3) (i) Aeroplanes - Aeroengines	40
⁵ (ii) Motor buses, motor lorries and motor taxis used in a business of running them on hire	
(iii) Commercial vehicle which is acquired by the assessee on or after the 1st day of October, 1998, but before the 1st day of April, 1999 and is put to use for any period before the 1st day of April, 1999 for the purposes of business or profession in accordance with the third proviso to clause (ii) of sub-section (1) of section 32 [See Note 6 below the Table]	40
(iv) New commercial vehicle which is acquired on or after the 1st day of October, 1998, but before the 1st day of April, 1999 in replacement of condemned vehicle of over 15 years of age and is put to use for any period before the 1st day of April, 1999 for the purposes of business or profession in accordance with the third proviso to clause (ii) of sub-section (1) of section 32 [See Note 6 below the Table]	60
(v) New commercial vehicle which is acquired on or after the 1st day of April, 1999 but before the 1st day of April, 2000 in replacement of condemned vehicle of over 15 years of age and is put to use before the 1st day of April, 2000 for the purposes of business or profession in	

4. Jeeps are classifiable as motor cars - *Crompton Engg. Co. (Madras) Ltd. v. CIT* [1992] 193 ITR 483 (Mad.)/ *CAIT v. Good Hope Enterprises* [1992] 197 ITR 236 (Ker.).
Trailer is a motor car - *CIT v. Dhampur Sugar Mills Ltd.* [2006] 280 ITR 161 (All.).
5. Trucks primarily used for assessee's own business and occasionally let out on hire will not fall under this entry unless assessee carries on a business of running them on hire - *CIT v. Manjeet Stone Co.* [1991] 190 ITR 183 (Raj.); Vehicles plying between fixed points for carriage of passengers fall under this entry - *ITO v. Sarojini Transports (P.) Ltd.* [1986] 17 ITD 1014 (Mad.); Mobile crane mounted on a lorry falls under this entry - *Gujco Carriers v. CIT* [2002] 122 Taxman 206 (Guj.); Rigs and compressors mounted on a lorry do not fall under this item - *CIT v. Popular Borewell Service* [1992] 194 ITR 12 (Mad.); Motor vans are akin to motor lorries or motor buses - *Circular No. 609, dated 29-7-1991/CIT v. Kodak Ltd.* [1990] 181 ITR 275 (Bom.); Ambulance van falls under this entry - *CIT v. Dr. K.R. Jayachandran* [1995] 212 ITR 637 (Ker.); Air conditioned vehicles fall under this entry - *CIT v. Smt. Urmila Goel* [1986] 52 CTR (Delhi) 276. Mobile crane mounted on motor truck used in business of running it on hire and registered as a heavy motor vehicle, would fall within expression 'motor lorries' in heading/Entry III(1A) of Part I of Appendix I and, hence, be entitled to depreciation at 40 per cent - *Gujco Carriers v. CIT* [2002] 122 Taxman 206/256 ITR 50 (Guj.). The word "hire" used in Appendix I, entry III(2)(ii) is meant to denote that the use of the vehicle is not by the owner himself for his own purposes, but it is given to another for use for a limited period of that other for a consideration. For the purpose of this entry there is no qualitative difference between lease of the vehicle for a specified period for consideration and letting the vehicle on hire for short duration on payment of hire charges - *CIT v. Madan & Co.* [2002] 254 ITR 445 (Mad.). For details, see Taxmann's Master Guide to Income-tax Rules.

1	2
accordance with the second proviso to clause (ii) of sub-section (1) of section 32 [See Note 6 below the Table]	60
(vi) New commercial vehicle which is acquired on or after the 1st day of April, 2001 but before the 1st day of April, 2002 and is put to use before the 1st day of April, 2002 for the purposes of business or profession [See Note 6 below the Table]	50
⁶(vii) Moulds used in rubber and plastic goods factories	40
(viii) Air pollution control equipment, being—	
(a) Electrostatic precipitation systems	
(b) Felt-filter systems	
(c) Dust collector systems	⁷[100]
(d) Scrubber-counter current/venturi/packed bed/cyclonic scrubbers	
(e) Ash handling system and evacuation system	
(ix) Water pollution control equipment, being—	
(a) Mechanical screen systems	
(b) Aerated detritus chambers (including air compressor)	
(c) Mechanically skimmed oil and grease removal systems	
(d) Chemical feed systems and flash mixing equipment	
(e) Mechanical flocculators and mechanical reactors	
(f) Diffused air/mechanically aerated activated sludge systems	
(g) Aerated lagoon systems	⁷[100]
(h) Biofilters	
(i) Methane-recovery anaerobic digester systems	
(j) Air floatation systems	
(k) Air/steam stripping systems	
(l) Urea Hydrolysis systems	
(m) Marine outfall systems	
(n) Centrifuge for dewatering sludge	
(o) Rotating biological contractor or bio-disc	
(p) Ion exchange resin column	
(q) Activated carbon column	
(x) (a) Solidwaste control equipments being - caustic/lime/chrome/mineral/cryolite recovery system	⁷[100]
(b) Solidwaste recycling and resource recovery systems	

6. Company manufacturing insulated wires and cables is not covered under this entry - *CIT v. Falcon Wires (P.) Ltd.* [1980] 123 ITR 427 (Mad.).

7. Substituted for "80" by the IT (Fourth Amdt.) Rules, 2003, w.e.f. 1-4-2003.

<i>1</i>	<i>2</i>
(xi) Machinery and plant, used in semi-conductor industry covering all integrated circuits (ICs) (excluding hybrid integrated circuits) ranging from small scale integration (SSI) to large scale integration/very large scale integration (LSI/VLSI) as also discrete semi-conductor devices such as diodes, transistors, thyristors, triacs, etc., other than those covered by entries (viii), (ix) and (x) of this sub-item and sub-item (8) below	40
⁸ [(xia) Life saving medical equipment, being—	
(a) D.C. Defibrillators for internal use and pace makers	
(b) Haemodialysors	
(c) Heart lung machine	
(d) Cobalt Therapy Unit	
(e) Colour Doppler	
(f) SPECT Gamma Camera	
(g) Vascular Angiography System including Digital Subtraction Angiography	
(h) Ventilator used with anaesthesia apparatus	
(i) Magnetic Resonance Imaging System	
(j) Surgical Laser	40]
(k) Ventilators other than those used with anaesthesia	
(l) Gamma knife	
(m) Bone Marrow Transplant Equipment including silastic long standing intravenous catheters for chemotherapy	
(n) Fibre optic endoscopes including, Paediatric resectoscope/audit resectoscope, Peritoneoscopes, Arthroscope, Microlaryngoscope, Fibreoptic Flexible Nasal Pharyngo Bronchoscope, Fibreoptic Flexible Laryngo Bronchoscope, Video Laryngo Bronchoscope and Video Oesophago Gastroscope, Stroboscope, Fibreoptic Flexible Oesophago Gastroscope	
(o) Laparoscope (single incision)	
(4) Containers made of glass or plastic used as re-fills	50
(5) Computers including computer software [See Note 7 below the Table]	60

8. Inserted by the IT (Fifth Amdt.) Rules, 2003, w.e.f. 1-4-2004.

1	2
(6) Machinery and plant, used in weaving, processing and garment sector of textile industry, which is purchased under TUFs on or after the 1st day of April, 2001 but before the 1st day of April, 2004 and is put to use before the 1st day of April, 2004 [See Note 8 below the Table]	50
(7) Machinery and plant, acquired and installed on or after the 1st day of September, 2002 in a water supply project or a water treatment system and which is put to use for the purpose of business of providing infrastructure facility under clause (i) of sub-section (4) of section 80-IA [See Notes 4 and 9 below the Table]	100
(8) (i) Wooden parts used in artificial silk manufacturing machinery ⁹	100
(ii) Cinematograph films - bulbs of studio lights	100
(iii) Match factories - Wooden match frames	100
(iv) Mines and quarries :	
(a) Tubs, winding ropes, haulage ropes and sand stowing pipes	100
(b) Safety lamps	
(v) Salt works - Salt pans, reservoirs and condensers, etc., made of earthy, sandy or clayey material or any other similar material	100
(vi) Flour mills - Rollers	80
(vii) Iron and steel industry - Rolling mill rolls	80
(viii) Sugar works - Rollers	80
(ix) Energy saving devices, being—	
A. Specialised boilers and furnaces:	
(a) Ignifluid/fluidized bed boilers	
(b) Flameless furnaces and continuous pusher type furnaces	
(c) Fluidized bed type heat treatment furnaces	80
(d) High efficiency boilers (thermal efficiency higher than 75 per cent in case of coal fired and 80 per cent in case of oil/gas fired boilers)	

9. Machinery used for dyeing, bleaching and printing of cloth manufactured by some other person will not fall under this item - *CIT v. Jaypee Dyeing House* [1999] 239 ITR 418 (Bom.).

<i>1</i>	<i>2</i>
<p><i>B.</i> Instrumentation and monitoring system for monitoring energy flows:</p> <p>(a) Automatic electrical load monitoring systems</p> <p>(b) Digital heat loss meters</p> <p>(c) Micro-processor based control systems</p> <p>(d) Infra-red thermography</p> <p>(e) Meters for measuring heat losses, furnace oil flow, steam flow, electric energy and power factor meters</p> <p>(f) Maximum demand indicator and clamp on power meters</p> <p>(g) Exhaust gases analyser</p> <p>(h) Fuel oil pump test bench</p>	80
<p><i>C.</i> Waste heat recovery equipment:</p> <p>(a) Economisers and feed water heaters</p> <p>(b) Recuperators and air pre-heaters</p> <p>(c) Heat pumps</p> <p>(d) Thermal energy wheel for high and low temperature waste heat recovery</p>	80
<p><i>D.</i> Co-generation systems:</p> <p>(a) Back pressure pass out, controlled extraction, extraction-<i>cum</i>-condensing turbines for co-generation along with pressure boilers</p> <p>(b) Vapour absorption refrigeration systems</p> <p>(c) Organic rankine cycle power systems</p> <p>(d) Low inlet pressure small steam turbines</p>	80
<p><i>E.</i> Electrical equipment:</p> <p>(a) Shunt capacitors and synchronous condenser systems</p> <p>(b) Automatic power cut off devices (relays) mounted on individual motors</p> <p>(c) Automatic voltage controller</p> <p>(d) Power factor controller for AC motors</p> <p>(e) Solid state devices for controlling motor speeds</p> <p>(f) Thermally energy-efficient stenters (which require 800 or less kilocalories of heat to evaporate one kilogram of water)</p>	80

<i>1</i>	<i>2</i>
(g) Series compensation equipment	80
(h) Flexible AC Transmission (FACT) devices - Thyristor controlled series compensation equipment	
(i) Time of Day (ToD) energy meters	
(j) Equipment to establish transmission highways for National Power Grid to facilitate transfer of surplus power of one region to the deficient region	
(k) Remote terminal units/intelligent electronic devices, computer hardware/software, router/bridges, other required equipment and associated communication systems for supervisory control and data acquisition systems, energy management systems and distribution management systems for power transmission systems	
(l) Special energy meters for Availability Based Tariff (ABT)	
F. Burners:	
(a) 0 to 10 per cent excess air burners	80
(b) Emulsion burners	
(c) Burners using air with high pre-heat temperature (above 300°C)	
G. Other equipment:	
(a) Wet air oxidation equipment for recovery of chemicals and heat	80
(b) Mechanical vapour recompressors	
(c) Thin film evaporators	
(d) Automatic micro-processor based load demand controllers	
(e) Coal based producer gas plants	
(f) Fluid drives and fluid couplings	
(g) Turbo charges/super-charges	
(h) Sealed radiation sources for radiation processing plants	

1	2
¹⁰ (x) Gas cylinders including valves and regulators	80
(xi) Glass manufacturing concerns - Direct fire glass melting furnaces	80
¹¹ (xii) Mineral oil concerns:	
(a) Plant used in field operations (above ground) distribution - Returnable packages	
(b) Plant used in field operations (below ground), but not including kerbside pumps including underground tanks and fittings used in field operations (distribution) by mineral oil concerns	80
(xiii) Renewable energy devices being—	
(a) Flat plate solar collectors	
(b) Concentrating and pipe type solar collectors	
(c) Solar cookers	
(d) Solar water heaters and systems	
(e) Air/gas/fluid heating systems	
(f) Solar crop driers and systems	80
(g) Solar refrigeration, cold storages and air conditioning systems	
(h) Solar steels and desalination systems	
(i) Solar power generating systems	
(j) Solar pumps based on solar-thermal and solar-photovoltaic conversion	
(k) Solar-photovoltaic modules and panels for water pumping and other applications	
(l) Wind mills and any specially designed devices which run on wind mills	

10. Mere fact that assessee sold some cylinders during the previous year will not convert the cylinders into stock-in-trade. The cylinders must be capable of containing gas, and there is no requirement that the cylinders must be filled with gas - *Chawla Architects & Consultants (P.) Ltd. v. Asstt. CIT* [1995] 54 ITD 330 (Bom.).
11. Lessee is also entitled to this rate - *Dy. CIT v. Gearhart India Ltd.* [1999] 64 TTJ (Delhi) 63; Petroleum company distributing gas for cooking purpose is a 'mineral oil concern' - *CIT v. Burmah Shell Oil Storage & Distribution Co. of India Ltd.* [1978] 115 ITR 891 (Cal.); Vegetable oil is not a 'mineral oil' - *Addl. CIT v. Distillers Trading Corporation Ltd.* [1982] 137 ITR 894 (Delhi).

1	2
(m) Any special devices including electric generators and pumps running on wind energy	80
(n) Biogas-plant and biogas-engines	
(o) Electrically operated vehicles including battery powered or fuel-cell powered vehicles	
(p) Agricultural and municipal waste conversion devices producing energy	
(q) Equipment for utilising ocean waste and thermal energy	
(r) Machinery and plant used in the manufacture of any of the above sub-items	
(9) (i) Books owned by assessee carrying on a profession—	
(a) Books, being annual publications	100
(b) Books, other than those covered by entry (a) above	60
(ii) Books owned by assessee carrying on business in running lending libraries	100
IV. SHIPS	
(1) Ocean-going ships including dredgers, tugs, barges, survey launches and other similar ships used mainly for dredging purposes and fishing vessels with wooden hull	25
(2) Vessels ordinarily operating on inland waters, not covered by sub-item (3) below	25
(3) Vessels ordinarily operating on inland waters being speed boats [See Note 10 below the Table]	25
<i>PART B</i>	
INTANGIBLE ASSETS	
Know-how, patents, copyrights, trademarks, licences, franchises or any other business or commercial rights of similar nature	25

Notes:

1. "Buildings" include roads, bridges, culverts, wells and tubewells.
2. A building shall be deemed to be a building used mainly for residential purposes, if the built-up floor area thereof used for residential purposes is not less than sixty-six and two-third per cent of its total built-up floor area and shall include any such building in the factory premises.
3. In respect of any structure or work by way of renovation or improvement in or in relation to a building referred to in *Explanation 1* of clause (ii) of sub-section (1) of section 32, the percentage to be applied will be the percentage specified against sub-item (1) or (2) of item 1 as may be appropriate to the class of building in or in relation to which the renovation or improvement is effected. Where the structure is constructed or the work is done by way of extension of any such building, the percentage to be applied would be

- such percentage as would be appropriate, as if the structure or work constituted a separate building.
4. Water treatment system includes system for desalination, demineralisation and purification of water.
 5. "Electrical fittings" include electrical wiring, switches, sockets, other fittings and fans, etc.
 6. "Commercial vehicle" means "heavy goods vehicle", "heavy passenger motor vehicle", "light motor vehicle", "medium goods vehicle" and "medium passenger motor vehicle" but does not include "maxi-cab", "motor-cab", "tractor" and "road-roller". The expressions "heavy goods vehicle", "heavy passenger motor vehicle", "light motor vehicle", "medium goods vehicle", "medium passenger motor vehicle", "maxi-cab", "motor-cab", "tractor" and "road-roller" shall have the meanings respectively as assigned to them in section 2 of the Motor Vehicles Act, 1988 (59 of 1988).
 7. "Computer software" means any computer program recorded on any disc, tape, perforated media or other information storage device.
 8. "TUFS" means Technology Upgradation Fund Scheme announced by the Government of India in the form of a Resolution of the Ministry of Textiles *vide* No. 28/1/99-CTI of 31-3-1999.
 9. Machinery and plant includes pipes needed for delivery from the source of supply of raw water to the plant and from the plant to the storage facility.
 10. "Speed boat" means a motor boat driven by a high speed internal combustion engine capable of propelling the boat at a speed exceeding 24 kilometres per hour in still water and so designed that when running at a speed, it will plane, *i.e.*, its bow will rise from the water.]

¹[OLD APPENDIX I**[Applicable for assessment years 1988-89 to 2002-03]**

[See rule 5]

TABLE OF RATES AT WHICH DEPRECIATION IS ADMISSIBLE

<i>Block of assets</i>	<i>Depreciation allowance as percentage of written down value</i>
<i>1</i>	<i>2</i>
² [PART A TANGIBLE ASSETS]	
I. BUILDINGS [See Notes 1 to 3 below the Table]	
(1) Buildings other than those covered by sub-item (3) below which are used mainly for residential purposes	5
(2) ³ Buildings which are not used mainly for residential purposes and which are not covered by sub-item (3) below	10
(3) (i) Buildings used as hotels	20
(ii) Buildings with dwelling units each with plinth area not exceeding 80 square metres	
⁴ [(iii) New buildings, other than the buildings covered under entry (ii) of this item, with dwelling units each with plinth area not exceeding 80 square metres acquired on or after the 1st day of April, 1999 but before the 1st day of April, 2002	
(4) Purely temporary erections such as wooden structures	100
II. FURNITURE AND FITTINGS	
(1) Rate applicable to furniture and fittings not covered by sub-item (2) below	10
(2) Furniture and fittings used in hotels, restaurants and ⁵ boarding houses; schools, colleges and other educational institutions; libraries; welfare centres; meeting halls; cinema houses; theatres and circuses; and furniture and fittings let out on hire for use on the occasion of marriages and similar functions	15

1. Substituted by the IT (Third Amdt.) Rules, 1987, w.e.f. 2-4-1987.

2. Substituted for "A. TANGIBLE ASSETS" by the IT (Ninth Amdt.) Rules, 1999, w.e.f. 1-4-2000. Prior to its substitution, "A. TANGIBLE ASSETS" was inserted by the IT (Twelfth Amdt.) Rules, 1998, w.e.f. 1-4-1999.

3. Roads/culverts/compound walls in factory premises are part of 'building' - *CIT v. Gujarat State Fertilizer Co. Ltd.* [1996] 219 ITR 550 (Guj.). For details, see Taxmann's Master Guide to Income-tax Rules.

4. Inserted by the IT (Ninth Amdt.) Rules, 1999, w.e.f. 1-4-2000.

5. Camp equipment and furniture provided at worksite as lodging facility to staff will fall under this entry - *Addl. CIT v. Farasol Ltd.* [1987] 163 ITR 364 (Raj.). For details, see Taxmann's Master Guide to Income-tax Rules.

1	2
III. ⁶MACHINERY AND PLANT	
(1) Machinery and plant other than those covered by ⁷ [sub-items (1A), (2)] and (3) below	⁸ [25]
⁹ [(1A) Motor cars, other than those used in a business of running them on hire, acquired or put to use on or after the 1st day of April, 1990	20]
(2) (i) Aeroplanes—Aeroengines] ¹¹ [40]
(ii) Motor buses, motor lorries and motor taxis used in a business of running them on hire ¹⁰	
¹² [(iia) Commercial vehicle which is acquired by the assessee on or after the 1st day of October, 1998, but before the 1st day of April, 1999 and is put to use for any period before the 1st day of April, 1999 for the purposes of business or profession in accordance with the third proviso to clause (ii) of subsection (1) of section 32 [See Note 3A below the Table]	40
(iib) New commercial vehicle which is acquired on or after the 1st day of October, 1998 but before the 1st day of April, 1999 in replacement of condemned vehicle of over 15 years of age and is put to use for any period before the 1st day of April, 1999 for the purposes of business or profession in accordance with the third proviso to clause (ii) of subsection (1) of section 32 [See Note 3A below the Table]	60

6. Building in which business of hotel or cinema is carried on must be classified as 'building' and not as 'plant' - *CIT v. Anand Theatres* [2000] 244 ITR 192 (SC). Approach roads within factory are not classifiable as 'plant' but as part of buildings - *CIT v. Karnataka Power Corpn. Ltd.* [1994] 205 ITR 511 (Kar.). Returnable bottles and crates used by soft drink manufacturers are to be treated as 'plant' - *CIT v. Saurashtra Bottling (P.) Ltd.* [1998] 233 ITR 270 (Guj.). Pre-commencement expenditure on books and periodicals which was capitalised would qualify for depreciation, since books and periodicals are to be treated as 'plant' - *CIT v. SPIC Ltd. (No. 1)* [1998] 233 ITR 391 (Mad.).

For details, see Taxmann's Master Guide to Income-tax Rules.

7. Substituted for "sub-items (2)" by the IT (Thirteenth Amdt.) Rules, 1990, w.e.f. 23-8-1990.
8. Substituted for "33.33" by the IT (Tenth Amdt.) Rules, 1991, w.e.f. 1-4-1992.
9. Inserted by the IT (Thirteenth Amdt.) Rules, 1990, w.e.f. 23-8-1990. Jeeps are classifiable as motor cars - *Crompton Engg. Co. (Madras) Ltd. v. CIT* [1992] 193 ITR 483 (Mad.). For details, see Taxmann's Master Guide to Income-tax Rules.
10. "Motor vans" are akin to "motor lorries" or "motor buses", and hence higher rate of depreciation will be allowed on motor vans also, if they are used for providing transport services to tourists—Circular No. 609, dated 29-7-1991.
Ambulance van is entitled to higher rate of depreciation—*CIT v. Dr. K.R. Jayachandran* [1995] 212 ITR 637 (Ker.).
Vehicles used mainly for assessee's own business (which does not include hiring of vehicles) do not fall under this category for the mere reason that the vehicles are occasionally hired out - *CIT v. Sardar Stones* [1995] 215 ITR 350 (Raj.)/*CIT v. Manjeet Stone Co.* [1991] 190 ITR 183 (Raj.)/*Veneer Mills v. CIT* [1993] 201 ITR 764 (Kar.). For details, see Taxmann's Master Guide to Income-tax Rules.
11. Substituted for "50" by the IT (Tenth Amdt.) Rules, 1991, w.e.f. 1-4-1992.
12. Entries (iia) to (iic) inserted by the IT (First Amdt.) Rules, 1999, w.e.f. 1-4-1999.

<i>1</i>	<i>2</i>
(iic) New commercial vehicle which is acquired on or after the 1st day of April, 1999 but before the 1st day of April, 2000 in replacement of condemned vehicle of over 15 years of age and is put to use before the 1st day of April, 2000 for the purposes of business or profession in accordance with the second proviso to clause (ii) of sub-section (1) of section 32 [See Note 3A below the Table]	60]
¹³ [(iicd) New commercial vehicle which is acquired on or after the 1st day of April, 2001 but before the 1st day of April, 2002 and is put to use before the 1st day of April, 2002 for the purposes of business or profession [See Note 3A below the Table]	50]
(iii) Moulds used in rubber and plastic goods factories	¹⁴ [40]
(iv) Air pollution control equipments, being—	
(a) Electrostatic precipitation systems] ¹⁵ [100]
(b) Felt-filter systems	
(c) Dust collector systems	
(d) Scrubber-counter current/venturi/packed-bed/cyclonic scrubbers	
¹⁶ [(e) Ash handling system and evacuation system]	
(v) Water pollution control equipments, being—	
(a) Mechanical screen systems] ¹⁵ [100]
(b) Aerated detritus chambers (including air compressor)	
(c) Mechanically skimmed oil and grease removal systems	
(d) Chemical feed systems and flash mixing equipment	
(e) Mechanical flocculators and mechanical reactors	
(f) Diffused air/mechanically aerated activated sludge systems	
(g) Aerated lagoon systems	
(h) Biofilters	
(i) Methane-recovery anaerobic digester systems	
(j) Air floatation systems	
(k) Air/steam stripping systems	
(l) Urea hydrolysis systems	
(m) Marine outfall systems	
(n) Centrifuge for dewatering sludge	
(o) Rotating biological contractor or bio-disc	
(p) Ion exchange resin column	
(q) Activated carbon column	

13. Inserted by the IT (Sixth Amdt.) Rules, 2001, w.e.f. 1-4-2002.

14. Substituted for "50" by the IT (Tenth Amdt.) Rules, 1991, w.e.f. 1-4-1992.

15. Substituted for "40" by the IT (Seventeenth Amdt.) Rules, 1993, w.e.f. 1-4-1994. Earlier "40" was substituted for "50" by the IT (Tenth Amdt.) Rules, 1991, w.e.f. 1-4-1992.

16. Inserted by the IT (Seventeenth Amdt.) Rules, 1993, w.e.f. 1-4-1994.

<i>1</i>	<i>2</i>
¹⁷ [(vi) (a)] Solidwaste control equipments, being—caustic/lime/chrome/mineral/cryolite recovery system ¹⁹ [(b) Solidwaste recycling and resource recovery systems] ²⁰ [(vii) Machinery and plant, used in semi-conductor industry covering all integrated circuits (ICs) (excluding hybrid integrated circuits) ranging from small scale integration (SSI) to large scale integration/very large scale integration (LSI/VLSI) as also discrete semi-conductor devices such as diodes, transistors, thyristors, triacs, etc., other than those covered by entries (iv), (v) and (vi) of this sub-item and sub-item (3) below.	¹⁸ [100]
²¹ [(2A) Containers made of glass or plastic used as re-fills	40]
²² [(2B) Computers	50]
²³ [(2C) Machinery and plant, used in weaving, processing and garment sector of textile industry, which is purchased under TUFs on or after the 1st day of April, 2001 but before the 1st day of April, 2004 and is put to use before the 1st day of April, 2004 [See Note 3B below the Table]	60]
(3) (i) Wooden parts used in artificial silk manufacturing machinery	50]
(ii) Cinematograph films—bulbs of studio lights	100
(iii) Energy saving devices, being—	
A. Specialised boilers and furnaces:	
(a) Ignifluid/fluidized bed boilers	
(b) Flameless furnaces and continuous pusher type furnaces	
(c) Fluidized bed type heat treatment furnaces	100
(d) High efficiency boilers (thermal efficiency higher than 75 per cent in case of coal fired and 80 per cent in case of oil/gas fired boilers)	
B. Instrumentation and monitoring system for monitoring energy flows :	
(a) Automatic electrical load monitoring systems	
(b) Digital heat loss meters	
(c) Micro-processor based control systems	
(d) Infra-red thermography	
(e) Meters for measuring heat losses, furnace oil flow, steam flow, electric energy and power factor meters	100
(f) Maximum demand indicator and clamp on power meters	
(g) Exhaust gases analyser	
(h) Fuel oil pump test bench	

17. Renumbered for “(vi)” by the IT (Seventeenth Amdt.) Rules, 1993, w.e.f. 1-4-1994.

18. Substituted for “40”, *ibid.* Earlier “40” was substituted for “50” by the IT (Tenth Amdt.) Rules, 1991, w.e.f. 1-4-1992.

19. Inserted by the IT (Seventeenth Amdt.) Rules, 1993, w.e.f. 1-4-1994.

20. Inserted by the IT (Twenty-first Amdt.) Rules, 1993, w.e.f. 22-12-1993.

21. Inserted by the IT (Second Amdt.) Rules, 1996, w.e.f. 1-4-1997.

22. Inserted by the IT (Twelfth Amdt.) Rules, 1998, w.e.f. 1-4-1999.

23. Inserted by the IT (Seventh Amdt.) Rules, 2001, w.e.f. 1-4-2002.

<i>1</i>	<i>2</i>
C. Waste heat recovery equipments:	
(a) Economisers and feed water heaters] 100
(b) Recuperators and air pre-heaters	
(c) Heat pumps	
(d) Thermal energy wheel for high and low temperature waste heat recovery	
D. Co-generation systems:	
(a) Back pressure pass out, controlled extraction, extraction- <i>cum</i> -condensing turbines for co-generation along with pressure boilers] 100
(b) Vapour absorption refrigeration systems	
(c) Organic rankine cycle power systems	
(d) Low inlet pressure small steam turbines	
E. Electrical equipments:	
(a) Shunt capacitors and synchronous condenser systems] 100
(b) Automatic power cut off devices (relays) mounted on individual motors	
(c) Automatic voltage controller	
(d) Power factor controller for AC motors	
(e) Solid state devices for controlling motor speeds	
²⁴ [(f) Thermally energy-efficient stenters (which require 800 or less kilocalories of heat to evaporate one kilogram of water)]	
F. Burners:	
(a) 0 to 10 per cent excess air burners] 100
(b) Emulsion burners	
(c) Burners using air with high pre-heat temperature (above 300°C)	
G. Other equipments:	
(a) Wet air oxidation equipment for recovery of chemicals and heat] 100
(b) Mechanical vapour recompressors	
(c) Thin film evaporators	
(d) Automatic micro-processor based load demand controllers	
(e) Coal based producer gas plants	
(f) Fluid drives and fluid couplings	
(g) Turbo charges/super-charges	
(iv) Flour mills—Rollers] 100

24. Substituted for "(f) Stenters" by the IT (Sixth Amtd.) Rules, 1987, w.e.f. 2-4-1987.

1	2
²⁵ (v) Gas cylinders including valves and regulators	100
(vi) Glass manufacturing concerns—Direct fire glass melting furnaces	100
(vii) Iron and steel industry—Rolling mill rolls	100
(viii) Match factories—Wooden match frames	100
²⁶ (ix) Mineral oil concerns:	
(a) Plant used in field operations (above ground) distribution—Returnable packages	
(b) Plant used in field operations (below ground), but not including kerbside pumps including underground tanks and fittings used in field operations (distribution) by mineral oil concerns	100
(x) Mines and quarries :	
(a) Tubs, winding ropes, haulage ropes and sand stowing pipes	
(b) Safety lamps	100
(xi) Salt works—Salt pans, reservoirs and condensers, etc., made of earthy, sandy or clayey material or any other similar material	100
(xii) Sugar works—Rollers	100
(xiii) Renewal energy devices being—	
(a) Flat plate solar collectors	
(b) Concentrating and pipe type solar collectors	
(c) Solar cookers	
(d) Solar water heaters and systems	
(e) Air/gas/fluid heating systems	
(f) Solar crop driers and systems	
(g) Solar refrigeration, cold storages and air-conditioning systems	100
(h) Solar steels and desalination systems	
(i) Solar power generating systems	
(j) Solar pumps based on solar-thermal and solar-photovoltaic conversion	
(k) Solar-photovoltaic modules and panels for water pumping and other applications	
(l) Wind mills and any specially designed devices which run on wind mills	

25. Gas cylinders used by gas distribution agency for supply of cooking gas fall under this entry - *CIT v. Burmah Shell Oil Storage & Distribution Co. of India Ltd. (Bombay)*[1978] 115 ITR 891 (Cal.). Gas cylinders used by gas manufacturing concern for storing gas are "plant" - *CIT v. National Air Products Ltd.*[1980] 126 ITR 196 (Delhi). For details, see Taxmann's Master Guide to Income-tax Rules.

26. This entry covers not only manufacturing concerns but also dealers/distributors of mineral oils - *Addl. CIT v. Distillers Trading Corpn. Ltd.* [1982] 137 ITR 894 (Delhi).

1	2
(m) Any special devices including electric generators and pumps running on wind energy	
(n) Biogas-plant and biogas-engines	
(o) Electrically operated vehicles including battery powered or fuel-cell powered vehicles	100
(p) Agricultural and municipal waste conversion devices producing energy	
(q) Equipment for utilising ocean waste and thermal energy	
(r) Machinery and plant used in the manufacture of any of the above sub-items	
²⁷ [(4) (i) Books owned by assessee carrying on a profession	100
(ii) Books owned by assessee carrying on business in running lending libraries	100]
²⁸ IV. SHIPS	
(1) Ocean-going ships including dredgers, tugs, barges, survey launches and other similar ships used mainly for dredging purposes and fishing vessels with wooden hull	²⁹ [25]
(2) Vessels ordinarily operating on inland waters, not covered by sub-item (3) below	²⁹ [25]
(3) Vessels ordinarily operating on inland waters being speed boats [see Note 4 below the Table]	²⁹ [25]
³⁰ [PART B INTANGIBLE ASSETS	
Know-how, patents, copyrights, trademarks, licences, franchises or any other business or commercial rights of similar nature	25]

27. Substituted by the IT (First Amdt.) Rules, 1996, w.e.f. 1-4-1996. Prior to its substitution, item (4), as inserted by the IT (Sixth Amdt.) Rules, 1995, w.e.f. 1-4-1996, read as under:
“(4) Books for professional purposes 100”.

28. Pontoons, which are just platforms used for working in the water and nothing else, cannot be treated as ships, just because they float in water - *Gammon India Ltd. v. CIT* [1997] 228 ITR 691 (Bom.).

29. Substituted for “20”, “10” and “20” against sub-items (1), (2) and (3), respectively, by the IT (Fifth Amdt.) Rules, 2001, w.e.f. 1-4-2002.

30. Substituted for the portion beginning with the words “B. INTANGIBLE ASSETS” and ending with figure “25” by the IT (Ninth Amdt.) Rules, 1999, w.e.f. 1-4-2000. Prior to its substitution, the quoted words, as inserted by the IT (Twelfth Amdt.) Rules, 1998, w.e.f. 1-4-1999, read as under:
“B. INTANGIBLE ASSETS
Know-how, patents, copyrights, trademarks, licences, franchises or any other business or commercial rights of similar nature 25”

Notes :

1. "Buildings" include roads, bridges, culverts, wells and tubewells.
 2. A building shall be deemed to be a building used mainly for residential purposes, if the built-up floor area thereof used for residential purposes is not less than sixty-six and two-third per cent of its total built-up floor area.
 3. In respect of any structure or work by way of renovation or improvement in or in relation to a building referred to in *Explanation 1* of clause (ii) of sub-section (1) of section 32, the percentage to be applied will be the percentage specified against sub-item (1), (2) or (3) of item 1 as may be appropriate to the class of building in or in relation to which the renovation or improvement is effected. Where the structure is constructed or the work is done by way of extension of any such building, the percentage to be applied would be such percentage as would be appropriate, as if the structure or work constituted a separate building.
- ³¹[3A. "Commercial vehicle" means "heavy goods vehicle", "heavy passenger motor vehicle", "light motor vehicle", "medium goods vehicle" and "medium passenger motor vehicle" but does not include "maxi-cab", "motor-cab", "tractor" and "road-roller". The expressions "heavy goods vehicle", "heavy passenger motor vehicle", "light motor vehicle", "medium goods vehicle", "medium passenger motor vehicle", "maxi-cab", "motor-cab", "tractor" and "road-roller" shall have the meanings respectively as assigned to them in section 2 of the Motor Vehicles Act, 1988 (59 of 1988).]
- ³²[3B. "TUFS" means Technology Upgradation Fund Scheme announced by the Government of India in the form of a Resolution of the Ministry of Textiles *vide* No. 28/1/99-CTI of 31-3-1999.]
4. "Speed boat" means a motor boat driven by a high speed internal combustion engine capable of propelling the boat at a speed exceeding 24 kilometres per hour in still water and so designed that when running at a speed, it will plane, *i.e.*, its bow will rise from the water.

31. Inserted by the IT (First Amdt.) Rules, 1999, w.e.f. 1-4-1999.

32. Inserted by the IT (Seventh Amdt.) Rules, 2001, w.e.f. 1-4-2002.

OLD APPENDIX I

[Applicable for assessment years 1984-85 to 1987-88]

PART I

[See rule 5]

TABLE OF RATES AT WHICH DEPRECIATION IS ADMISSIBLE

<i>Class of asset</i>	<i>Depreciation allowance as percentage of—</i> (i) <i>actual cost in the case of ocean-going ships;</i> (ii) <i>written down value in the case of any other asset</i>	<i>Remarks</i>
<i>1</i>	<i>2</i>	<i>3</i>
I. BUILDINGS—		
¹ [1. General rate	5	"Buildings" include roads, bridges, culverts, wells and tubewells.]
2. Special rate in respect of factory buildings (excluding offices, godowns, officers' and employees' quarters, roads, bridges, culverts, wells and tubewells)	10	
² [3.] Purely temporary erections such as wooden structures	100	
² [4.] In respect of any structure or work in or in relation to a building referred to in sub-section (1A) of section 32,—	—	
(a) where such structure is constructed or such work is done by way of renovation or improvement to any such building	The percentage specified against sub-item ³ [1, 2 or 3] as may be appropriate to the	

1. Substituted by the IT (Fourth Amdt.) Rules, 1983, w.e.f. 2-4-1983. Prior to their substitution, items stood as under :

1. First class substantial buildings of selected materials	2.5	Double these rates will be taken for factory buildings excluding offices, godowns, officers' and employees' quarters."
2. Second class buildings of less substantial construction	5	
3. Third class buildings of construction inferior to that of second class buildings but not including purely temporary erections	7.5	
2. Renumbered, <i>ibid.</i>		
3. Substituted for "1, 2, 3 or 4", <i>ibid.</i>		

1	2	3
<p>(b) where the structure is constructed or the work is done by way of extension to any such building</p> <p>II. FURNITURE AND FITTINGS—</p> <p>1. General rate</p> <p>2. Rate for furniture and fittings used in hotels, restaurants and boarding houses; schools, colleges and other educational institutions; libraries; welfare centres; meeting halls; cinema houses; theatres and circuses; and for furniture and fittings let out on hire for use on the occasion of marriages and similar functions</p> <p>III. MACHINERY AND PLANT (not being a ship)—</p> <p>(i) General rate applicable to machinery and plant (not being a ship) for which no special rate has been prescribed under item (ii) hereinbelow</p> <p>(ii) Special rates:</p> <p style="padding-left: 20px;">A. ⁶[***]</p>	<p>class of building in or in relation to which the renovation or improvement is effected;</p> <p>The percentage specified against sub-item ⁴[1, 2 or 3] as would be appropriate if the structure or work constituted a separate building.</p> <p style="text-align: center;">10</p> <p style="text-align: center;">15</p> <p style="text-align: center;">⁵[15]</p>	

4. Substituted for "1, 2, 3 or 4" by the IT (Fourth Amtd.) Rules, 1983, w.e.f. 2-4-1983.

5. Substituted for "10", *ibid.*

6. Omitted, *ibid.* Prior to its omission, Group 'A' stood as under :

<p>A. (1) Hydraulic works, pipelines and sluices [N.E.S.A.]</p> <p>(2) Overhead cables and wires [N.E.S.A.]</p>	<p style="font-size: 2em;">}</p> <p style="font-size: 2em;">5</p>
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(Contd. on p. 1.310)

1	2	3
<p>B. 7[***]</p> <p>C. (1) Cinematograph films—Machinery used in the production and exhibition of cinematograph films [N.E.S.A.]</p> <p style="padding-left: 2em;">(a) Recording equipment, reproducing equipment, developing machines, printing machines, editing machines, synchronisers and studio lights except bulbs</p> <p style="padding-left: 2em;">(b) Projecting equipment of film exhibiting concerns</p> <p>(2) Cycles [N.E.S.A.]</p>	<p>20</p>	

(Contd. from p. 1.309)

<p>(3) Salt works, reservoirs, condensers, salt pans, delivery channels and piers, if constructed of masonry, concrete, cement, asphalt or similar materials [N.E.S.A.]</p>	<p>5"</p>	
<p>7. Omitted by the IT (Fourth Amtd.) Rules, 1983, w.e.f. 2-4-1983. Prior to its omission, Group 'B' stood as under :</p>		
<p>"B. (1) Accounting machines [N.E.S.A.]</p> <p>(2) Air-conditioning machinery including room air-conditioners [N.E.S.A.]</p> <p>(3) Artificial silk manufacturing machinery and plant except wooden parts</p> <p>(4) Building contractor's machinery [N.E.S.A.]</p> <p>(5) Brick and tile manufacture—Wooden shelves and pellets</p> <p>(6) Calculating machines [N.E.S.A.]</p> <p>*(7) Machinery and plant coming into contact with corrosive chemicals</p> <p>(8) Machine tools—</p> <p style="padding-left: 2em;">(a) Automatic and semi-automatic;</p> <p style="padding-left: 2em;">(b) precision machine tools, e.g., grinding machines</p> <p>(9) Mineral oil concerns—Field operations (distribution)—Kerbside pumps including</p>	<p>15</p>	
<p>* See <i>KCP Ltd. v. CIT</i> [1988] 174 ITR 225 (AP).</p>		

(Contd. on p. 1.311)

1	2	3
(3) Data processing machines including computers [N.E.S.A.] (4) Electrical machinery—Batteries; X-Ray and electrotherapeutic apparatus and accessories thereto [N.E.S.A.]	20	

(Contd. from p. 1.310)

- underground tanks and fittings [N.E.S.A.]
- (10) Mines and quarries—Surface and underground machinery (other than electrical machinery, boilers and portable underground machinery), headgear, moving parts and rails [N.E.S.A.]
- (11) Neo-post Franking Machines [N.E.S.A.]
- (12) Office machinery [N.E.S.A.]
- (13) Refrigeration plant containers, etc. (other than racks) [N.E.S.A.]
- (14) Road-making plant and machinery
- (15) Ropeway structures—Carriers
- (16) Rubber and plastic goods factories—General machinery and plant
- (17) Salt works—Machinery, plant, locomotives, wagons and rolling stock
- (18) Sewing and knitting machines employed in the manufacture of hosiery and woollen goods
- (19) Sewing and stitching machines for canvas or leather
- (20) Surgical instruments [N.E.S.A.]
- (21) Tea factories—General machinery and plant including rollers and driers
- (22) Tramways electric and tramways run by internal combustion engines—Permanent way exceeding 1,25,000 car kilometres per kilometre of track per annum [N.E.S.A.]
- (23) Typewriters [N.E.S.A.]
- (24) Wireless apparatus and gear, wireless appliances and accessories [N.E.S.A.]

15"

1	2	3
(5) Glass manufacturing concerns except direct fire glass melting furnaces—Recuperative and regenerative glass melting furnaces	20	
(6) Juice boiling pans (karhais) [N.E.S.A.]		
⁸ [(6A) Machinery used in the manufacture of electronic goods or components]		
⁹ (7) Motor-cars, motor cycles, scooters and other mopeds [N.E.S.A.]		
(8) Sugarcane crushers (indigenous kolhus and belans) [N.E.S.A.]		
D. (1) Aeroplanes—Aircraft, aerial photographic apparatus [N.E.S.A.]	30	
(2) Concrete pipes manufacture—Moulds [N.E.S.A.]		
(3) Drum container manufacture—Dies [N.E.S.A.]		
¹⁰ (4) Earth-moving machinery employed in heavy construction works, such as dams, tunnels, canals, etc. [N.E.S.A.]		
(5) Glass manufacturing concerns except direct fire glass melting furnaces—Moulds [N.E.S.A.]		
(6) Moulds in iron foundries [N.E.S.A.]		
(7) Mineral oil concerns—Field operations (above ground)—Portable boilers, drilling tools, well-head tanks, rigs, etc. [N.E.S.A.]		

8. Inserted by the IT (Fourth Amdt.) Rules, 1980, w.e.f. 18-6-1980.

9. Three-wheelers like tempo and autorickshaws also fall in this item - Instruction No. 347, dated 23-11-1971.

For details, see Taxmann's Master Guide to Income-tax Rules.

10. See *CIT v. Super Drillers* [1988] 174 ITR 640 (AP).

For details, see Taxmann's Master Guide to Income-tax Rules.

<i>1</i>	<i>2</i>	<i>3</i>
(8) Mines and quarries—Portable underground machinery and earth-moving machinery used in open cast mining [N.E.S.A.]	30	
¹¹ [(¹² 9) ¹³ Motor buses and motor lorries other than those used in a business of running them on hire [N.E.S.A.]]		
¹⁴ (9A) Motor tractors, harvesting combines [N.E.S.A.]		
(10) Patterns, dies and templates [N.E.S.A.]		
¹⁵ [(10A) Renewal energy devices, being—		
(i) Flat plate solar collectors		
(ii) Concentrating and pipe type solar collectors		
(iii) Solar cookers		
(iv) Solar water heaters and systems		
(v) Air/gas/fluid heating systems		
(vi) Solar crop driers and systems		
(vii) Solar refrigeration, cold storages and air-conditioning systems		
(viii) Solar steels and desalination systems		
(ix) Solar power generating systems		
(x) Solar pumps based on solar thermal and solar photovoltaic conversion		

11. Substituted for item 9 by the IT (Eighth Amtd.) Rules, 1978, w.e.f. 1-4-1978.

12. Substituted by the IT (Fifth Amtd.) Rules, 1980, w.e.f. 24-7-1980.

13. On motor van, being akin to motor lorries/motor buses, depreciation is to be allowed at the rate of 30 per cent—Circular No. 315, dated 24-9-1981.

For details, see Taxmann's Master Guide to Income-tax Rules.

14. Fork-lift trucks also fall in this item—Instruction No. 617, dated 13-9-1973.

For details, see Taxmann's Master Guide to Income-tax Rules.

15. Inserted by the IT (Fourth Amtd.) Rules, 1981, w.e.f. 1-4-1981.

For details, see Taxmann's Master Guide to Income-tax Rules.

1	2	3
<p>(xi) Solar photovoltaic modules and panels for water pumping and other applications</p> <p>(xii) Wind mills and any specially designed devices which run on wind mills</p> <p>(xiii) Any special devices including electric generators and pumps running on wind energy</p> <p>(xiv) Biogas plant and biogas engines</p> <p>(xv) Electrically operated vehicles including battery powered or fuel-cell powered vehicles</p> <p>(xvi) Agricultural and municipal waste conversion devices producing energy</p> <p>(xvii) Equipment for utilising ocean waste and thermal energy</p> <p>(xviii) Machinery and plant used in the manufacture of any of the above sub-items]</p> <p>¹⁶[(10B) (a) Air pollution control equipments, being—</p> <p style="padding-left: 20px;">(i) Electrostatic precipitation systems</p> <p style="padding-left: 20px;">(ii) Felt-filter systems</p> <p style="padding-left: 20px;">(iii) Dust collector systems</p> <p style="padding-left: 20px;">(iv) Scrubber—counter current/venturi/packed-bed/cyclonic scrubbers</p> <p>(b) Water pollution control equipments being—</p> <p style="padding-left: 20px;">(i) Mechanical screen systems</p> <p style="padding-left: 20px;">(ii) Aerated detritus chambers (including air compressor)</p>	<p>30</p>	

16. Inserted by the IT (Second Amdt.) Rules, 1983, w.e.f. 23-2-1983.

1	2	3
<ul style="list-style-type: none"> (iii) Mechanically skimmed oil and grease removal systems (iv) Chemical feed systems and flash mixing equipment (v) Mechanical flocculators and mechanical reactors (vi) Diffused air/mechanically aerated activated sludge systems (vii) Aerated lagoon systems (viii) Bio-filters (ix) Methane recovery anaerobic digester system (x) Air floatation systems (xi) Air/steam stripping systems (xii) Urea hydrolysis systems (xiii) Marine outfall systems (xiv) Centrifuge for dewatering sludge (xv) Rotating biological contractor or bio-disc (c) Solid waste control equipments, being— Caustic/lime/chrome/mineral/cryolite recovery system] <p>(10C) ¹⁷[****]</p>	<div style="border-left: 1px solid black; border-right: 1px solid black; border-bottom: 1px solid black; padding: 0 10px;"> <p style="margin: 0;">30</p> </div>	

17. Omitted by the IT (Fourth Amdt.) Rules, 1983, w.e.f. 2-4-1983. Original item (10C), as inserted by the IT (Third Amdt.) Rules, 1983, w.e.f. 26-2-1983, stood as under:

<ul style="list-style-type: none"> (10C) Energy saving devices, being— (a) Specialised boilers and furnaces : <ul style="list-style-type: none"> (i) Ignifluid/fluidized bed boilers (ii) Flameless furnaces 	<div style="border-left: 1px solid black; border-right: 1px solid black; border-bottom: 1px solid black; padding: 0 10px;"> <p style="margin: 0;">30</p> </div>
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(Contd. on p. 1.316)

1	2	3
(11) Ropeway structures—Ropeways, ropes and trestle sheaves and connected parts [N.E.S.A.]	30	
(12) Shoe and other leather goods factories—Wooden lasts used in the manufacture of shoes		
E. (1) Aeroplanes — Aero-engines [N.E.S.A.]	40	
¹⁸ [(1A) Motor buses, motor lorries and motor taxis used in a business of running them on hire [N.E.S.A.]]		

(Contd. from p. 1.315)

(iii) Fluidized bed type heat treatment furnace	30 ¹⁸	
(iv) High efficiency boilers (thermal efficiency higher than 75 per cent in case of coal fired and 80 per cent in case of oil/gas fired boilers)		
(b) Instrumentation and monitoring systems for monitoring energy flows :		
(i) Automatic electrical load monitoring systems		
(ii) Digital heat loss meters		
(iii) Micro-processor-based control systems		
(c) Waste heat recovery equipments and co-generation systems:		
(i) Economisers and feed water heaters		
(ii) Recuperators and air pre-heaters		
(iii) Back pressure turbines for co-generation		
(iv) Heat pumps		
(v) Vapour absorption refrigeration system		
(vi) Organic rankine cycle power system		
(vii) Low inlet pressure small steam turbines		
(d) Power factor correcting devices:		
(i) Shunt capacitors and synchronous condenser systems.		

18. Inserted by the IT (Fifth Amdt.) Rules, 1980, w.e.f. 24-7-1980.

<i>1</i>	<i>2</i>	<i>3</i>
(2) Rubber and plastic goods factories—Moulds [N.E.S.A.]	40	
F. (1) Artificial silk manufacturing machinery—Wooden parts	100	
(2) Cinematograph films—Bulbs of studio lights		
¹⁹ [(2A) Energy saving devices, being—		
(a) Specialised boilers and furnaces:		
(i) Ignifluid/fluidized bed boilers		
(ii) Flameless furnaces		
(iii) Fluidized bed type heat treatment furnaces		
(iv) High efficiency boilers (thermal efficiency higher than 75 per cent in case of coal fired and 80 per cent in case of oil/gas fired boilers)		
(b) Instrumentation and monitoring system for monitoring energy flows:		
(i) Automatic electrical load monitoring systems		
(ii) Digital heat loss meters		
(iii) Micro-processor based control systems		
(c) Waste heat recovery equipments and cogeneration systems:		
(i) Economisers and feed water heaters		
(ii) Recuperators and air pre-heaters		
(iii) Back pressure turbines for cogeneration		
(iv) Heat pumps		

19. Inserted by the IT (Fourth Amdt.) Rules, 1983, w.e.f. 2-4-1983.

1	2	3
<ul style="list-style-type: none"> (v) Vapour absorption refrigeration systems (vi) Organic rankine cycle power systems (vii) Low inlet pressure small steam turbines (d) Power factor correcting devices : <ul style="list-style-type: none"> Shunt capacitors and synchronous condenser systems] (3) Flour mills—Rollers (4) Gas cylinders including valves and regulators (5) Glass manufacturing concerns—Direct fire glass melting furnaces (6) Iron and steel industry—Rolling mill rolls (7) Match factories—Wooden match frames (8) Mineral oil concerns— <ul style="list-style-type: none"> (a) Plant used in field operations (above ground)—Distribution — Returnable packages (b) Plant used in field operations (below ground), but not including assets covered by ²⁰sub-item (ii) B(9) above. (9) Mines and quarries— <ul style="list-style-type: none"> (a) Tubs, winding ropes, haulage ropes and sand stowing pipes (b) Safety lamps (10) Salt works—Salt pans, reservoirs and condensers, etc., made of earthy, sandy or clayey material or any other similar material (11) Sugar works—Rollers 	100	

20. This sub-item has since been omitted by the IT (Fourth Amdt.) Rules, 1983, w.e.f. 2-4-1983 and reference to this sub-item has thus become redundant.

1	2	3
<p>(iii) <i>Extra depreciation allowance for approved hotels:</i></p> <p>An extra allowance of depreciation of an amount equal to one-half of the normal allowance shall be allowed in the case of machinery and plant installed by an assessee, being an Indian company, in premises used by it as a hotel where such hotel is for the time being approved by the Central Government for the purposes of section 33 of the Act.</p> <p><i>Explanation:</i> For the purposes of this sub-item and sub-item (iv), "normal allowance" means the amount of depreciation allowance [other than the extra depreciation allowance under this sub-item or the extra shift depreciation allowance under sub-item (iv)] which is allowable under rule 5.</p> <p>²¹(iv) <i>Extra shift depreciation allowance:</i></p> <p>An extra allowance up to a maximum of an amount equal to one-half of the normal allowance shall be allowed where a concern claims such allowance on account of double shift working and establishes that it has worked double shift. An extra allowance up to a maximum of an amount equal to the normal allowance, instead of one-half of the normal allowance, shall be allowed where a concern claims such allowance on account of triple shift working and establishes that it has worked triple shift.</p> <p>The calculations of the extra allowance for double shift working and for triple shift working shall be made separately in the proportion which the number of days for which the concern worked double shift or triple shift, as the case may be, bears to the normal number of working days during the previous year.</p>		

21. On computation of extra-shift depreciation allowance, see Circular No. 109, dated 20-3-1973 and Letter No. 10/83/69-IT(A-II), dated 28-9-1970, respectively. Also see *Aska Co-operative Sugar Industries Ltd. v. Union of India* [1988] 174 ITR 311 (Ori.). For details, see Taxmann's Master Guide to Income-tax Rules.

1	2	3
<p>For this purpose, the normal number of working days during the previous year shall be deemed to be—</p> <p>(a) in the case of a seasonal factory or concern, the number of days on which the factory or concern actually worked during the previous year or 180 days, whichever is greater;</p> <p>(b) in any other case, the number of days on which the factory or concern actually worked during the previous year or 240 days, whichever is greater.</p> <p style="text-align: center;"><i>Illustration</i></p> <p>For example, where a non-seasonal concern worked 270 days during the previous year out of which it worked triple shift on 135 days and double shift on another 90 days, the extra depreciation allowance for triple shift working will be 135/270, i.e., one-half, of the normal allowance, and that for double shift working 90/270, i.e., one-third, of one-half, of the normal allowance.</p> <p>The extra shift allowance shall not be allowed in respect of any item of machinery or plant which has been specifically excepted by inscription of the letters "N.E.S.A." (meaning "No Extra Shift Allowance") against it in sub-item (ii) above and also in respect of the following items of machinery and plant to which the general rate of depreciation of ²²[15] per cent applies—</p> <p>²³(1) Accounting machines</p> <p>(2) Air-conditioning machinery including room air-conditioners</p>		

22. Substituted for "10" by the IT (Fourth Amdt.) Rules, 1983, w.e.f. 2-4-1983.

23. Substituted for the following, *ibid.* :

"(1) Electrical machinery—Switchgear and instruments, transformers and other stationary plant and wiring and fittings of electric light and fan installations

(Contd. on p. 1.321)

<i>1</i>	<i>2</i>	<i>3</i>
<ul style="list-style-type: none"> (3) Building contractor's machinery (4) Calculating machines (5) Electrical machinery—switchgear and instruments, transformers and other stationary plant and wiring and fittings of electric light and fan installations 		

(Contd. from p. 1.320)

<ul style="list-style-type: none"> (2) Locomotives, rolling stock, tramways and railways used by concerns, excluding railway concerns (3) Mineral oil concerns—Refineries— <ul style="list-style-type: none"> (a) Boilers (b) Prime movers (c) Process plant (4) Mineral oil concerns—Field operations— <ul style="list-style-type: none"> (a) Boilers (b) Prime movers (c) Process plant (d) Storage tanks (above ground) (e) Pipelines (above ground) (f) Jetties and dry docks (5) Mines and quarries— <ul style="list-style-type: none"> (a) Boilers and headgears (excluding moving parts) (b) Shafts and inclines (c) Tramways on the surface (6) Railway sidings (7) Ropeway structures— <ul style="list-style-type: none"> (a) Trestle and station steel work (b) Driving and tension gearing (8) Salt works— <ul style="list-style-type: none"> (a) Barges and floating plant (b) Piers, quays and jetties (c) Pipelines for conveying brine if constructed of masonry, concrete, cement, asphalt or similar materials (9) Tramways electric and tramways run by internal combustion engines— <ul style="list-style-type: none"> (a) Permanent way not exceeding 1,25,000 car kilometres per kilometre of track per annum (b) Cars—car trucks, car bodies, electrical equipment and motors (c) Tram cars including engines and gears (10) Weighing machines." 		
---	--	--

<i>1</i>	<i>2</i>	<i>3</i>
(6) Hydraulic works, pipelines and sluices		
(7) Locomotives, rolling stocks, tramways and railways used by concerns, excluding railway concerns		
(8) Mineral oil concerns—field operations:		
(a) Boilers		
(b) Prime movers		
(c) Process plant		
(d) Storage tanks (above ground)		
(e) Pipelines (above ground)		
(f) Jetties and dry docks		
(9) Mineral oil concerns—field operations (distribution)—kerbside pumps, including underground tanks and fittings		
(10) Mineral oil concerns—refineries:		
(a) Boilers		
(b) Prime movers		
(c) Process plant		
(11) Mines and quarries:		
(a) Surface and underground machinery (other than electrical machinery and portable underground machinery)		
(b) Head-gears		
(c) Rails		
(d) Boilers		
(e) Shafts and inclines		
(f) Tramways on the surface		
(12) Neo-post franking machines		
(13) Office machinery		
(14) Overhead cables and wires		
(15) Railway sidings		
(16) Refrigeration plant containers, etc. (other than racks)		
(17) Ropeway structures:		
(a) Trestle and station steel work		
(b) Driving and tension gearing		
(18) Salt works—Reservoirs, condensers, salt pans, delivery channels and piers		

1	2	3
if constructed of masonry, concrete, cement, asphalt or similar materials; barges and floating plant; piers, quays and jetties; and pipelines for conveying brine if constructed of masonry, concrete, cement, asphalt or similar materials		
(19) Surgical instruments		
(20) Tramways electric and tramways run by internal combustion engines—permanent way: cars—car trucks, car bodies, electrical equipment and motors; tram cars including engines and gears		
(21) Typewriters		
(22) Weighing machines		
(23) Wireless apparatus and gear, wireless appliances and accessories]		
IV. SHIPS—		
²⁴ [1. Ocean-going ships—		
(i) Fishing vessels with wooden hull	10] To be calculated on the actual cost]
²⁵ [(ii) Dredgers, tugs, barges, survey launches and other similar ships used mainly for dredging purposes	7]	
(iii) Other ships	5	
2. Vessels ordinarily operating on inland waters—		
(i) *Speed boats	20	
(ii) Other vessels	10	

* "Speed boat" means a motor boat driven by a high speed internal combustion engine capable of propelling the boat at a speed exceeding 24 kilometres per hour in still water and so designed that when running at a speed it will plane, *i.e.*, its bow will rise from the water.

24. Substituted by the IT (Fifth Amdt.) Rules, 1974, w.e.f. 1-4-1975.

25. Inserted by the IT (Third Amdt.) Rules, 1985, w.e.f. 1-4-1985.

PART II

[See rule 5]

*EXPECTATION OF LIFE IN THE CASE OF A STEAMER OR MOTOR VESSEL
PURCHASED SECOND-HAND*

<i>Age at date of purchase</i>		<i>Expectation of life</i>
<i>Over years</i>	<i>Under years</i>	<i>Years</i>
0	1	20
1	2	19
2	3	18
3	4	17
4	5	16
5	6	15
6	7	14
7	8	13
8	9	12
9	10	11
10	11	10
11	12	9
12	13	9
13	14	8
14	15	8
15	16	7
16	17	7
17	18	7
18	19	6
19	20	6
20	21	5
21	22	5
22	23	4
23	24	4
Over 24 years		As determined by the Board on the facts of each case

¹[APPENDIX IA**TABLE OF RATES AT WHICH DEPRECIATION IS ADMISSIBLE**

[See rule 5(1A)]

<i>Class of assets</i>	<i>Depreciation allowance as percentage of actual cost</i>
(a) Plant and Machinery in generating stations including plant foundations :—	
(i) Hydro-electric	3.4
(ii) Steam electric NHRS & Waste heat recovery Boilers/plants	7.84
(iii) Diesel electric and Gas plant	8.24
(b) Cooling towers and circulating water systems	7.84
(c) Hydraulic works forming part of Hydro-electric system including :—	
(i) Dams, spillways weirs, canals, reinforced concrete flumes and syphons	1.95
(ii) Reinforced concrete pipelines and surge tanks, steel pipelines, sluice gates, steel surge (tanks), hydraulic control valves and other hydraulic works.	3.4
(d) Building and civil engineering works of permanent character, not mentioned above	
(i) Office and showrooms	3.02
(ii) Containing Thermo-electric generating plant	7.84
(iii) Containing Hydro-Electric generating plant	3.4
(iv) Temporary erection such as wooden structures	33.4
(v) Roads other than Kutcha roads	3.02
(vi) Others	3.02
(e) Transformers, transformer (Kiosk) sub-station equipment and other fixed apparatus (including plant foundations)	
(i) Transformers (including foundations) having a rating of 100 kilovolt amperes and over	7.81
(ii) Others	7.84

1. Inserted by the IT (Twelfth Amdt.) Rules, 1997, w.r.e.f. 2-4-1997.

<i>Class of assets</i>	<i>Depreciation allowance as percentage of actual cost</i>
(f) Switchgear including cable connections	7.84
(g) Lightning arrestor :	
(i) Station type	7.84
(ii) Pole type	12.77
(iii) Synchronous condenser	5.27
(h) Batteries	33.4
(i) Underground cable including joint boxes and disconnected boxes	5.27
(ii) Cable duct system	3.02
(i) Overhead lines including supports :	
(i) Lines on fabricated steel operating at nominal voltages higher than 66 kilovolt	5.27
(ii) Lines on steel supports operating at nominal voltages higher than 13.2 kilovolts but not exceeding 66 kilovolts	7.84
(iii) Lines on steel or reinforced concrete supports	7.84
(iv) Lines on treated wood supports	7.84
(j) Meters	12.77
(k) Self-propelled vehicles	33.40
(l) Air-conditioning plants :	
(i) Static	12.77
(ii) Portable	33.40
(m) (i) Office furniture and fittings	12.77
(ii) Office equipments	12.77
(iii) Internal wiring including fittings and apparatus	12.77
(iv) Street light fittings	12.77
(n) Apparatus let on hire	
(i) Other than motors	33.4
(ii) Motors	12.77
(o) Communication equipment :	
(i) Radio and high frequency carrier system	12.77
(ii) Telephone lines and telephones	12.77
(p) Any other assets not covered above	7.69]

APPENDIX II
'FORM SAHAJ (ITR-1)



2011-12 ITR-1, PAGE 1

ITR-1 SAHAJ INDIAN INDIVIDUAL INCOME TAX RETURN AY 2011-12

A1 FIRST NAME		A2 MIDDLE NAME	
A3 LAST NAME		A4 PERMANENT ACCOUNT NUMBER	
A5 SEX <input type="radio"/> Male <input type="radio"/> Female	A6 DATE OF BIRTH DDMMYYYY	A7 INCOME TAX WARD/CIRCLE	
A8 FLAT/DOOR/BUILDING		A9 ROAD/STREET	
A10 AREA/LOCALITY		A11 TOWN/CITY/DISTRICT	
A12 STATE		A13 PINCODE	
A14 EMAIL ADDRESS			
A15 RESIDENTIAL/OFFICE PHONE NO. WITH STD CODE		A16 MOBILE NO.	
A17 Fill only one if you belong to <input type="radio"/> Government <input type="radio"/> PSU <input type="radio"/> Others			
A18 Fill only one <input type="radio"/> Tax Refundable <input type="radio"/> Tax Payable <input type="radio"/> Nil Tax Balance A19 Fill only one <input type="radio"/> Resident <input type="radio"/> Non Resident <input type="radio"/> Resident but not ordinarily resident			
A20 Fill only one: filed <input type="radio"/> Before due date-139(1) <input type="radio"/> After due date-139(4) <input type="radio"/> Revised Return-139(5) OR in response to notice <input type="radio"/> 142(1) <input type="radio"/> 148 <input type="radio"/> 153A/153C			
A21 If revised <input type="checkbox"/>		Receipt Number of Original Return and Date of Filing Original Return DDMMYYYY	

PART B - GROSS TOTAL INCOME Whole-Rupee(₹) only.

B1 Income from Salary/Pension <small>NOTE-3 Ensure to fill "Sch TDS1" given in Page 2</small>	B1 ()
B2 Income from One House Property	B2 ()
B3 Income from other sources <small>NOTE-3 Ensure to fill "Sch TDS2" given in Page 2</small>	B3 ()
B4 Gross Total Income (B1 + B2 + B3)	B4 ()

PART C - DEDUCTIONS AND TAXABLE TOTAL INCOME (Refer to Instructions for Limits on Amount of Deductions as per "Income Tax Act")

C1	C1 (80C) ()	C2 (80CCC) ()	C3 (80CCD) ()
	C4 (80CCF) ()	C5 (80D) ()	C6 (80DD) ()
to	C7 (80DDB) ()	C8 (80E) ()	C9 (80G) ()
	C10 (80GG) ()	C11 (80GGA) ()	C12 (80GGC) ()
C13	C13 (80U) ()		
C14 Total Deductions (Add items C1 to C13)	C14 ()		
C15 Taxable Total Income(B4 - C14)	C15 ()		

FOR OFFICIAL USE ONLY
→ STAMP RECEIPT NO. HERE

SEAL, DATE AND SIGNATURE OF
RECEIVING OFFICIAL

1. Substituted by IT (Third Amdt.) Rules, 2011, w.r.e.f. 1-4-2011.



PERMANENT ACCOUNT NUMBER

2011-12 ITR-1, PAGE 2

PART D—TAX COMPUTATION AND TAX STATUS

D1 to D3	Tax Payable On Total Income(C15) D1	Secondary & Higher Education Cess D2	TOTAL TAX AND CESS (D1+ D2) D3
D4 to D6	Relief u/s 89 D4	Relief u/s 90/91 D5	Balance Tax After Relief (D3-D4-D5) D6
D7 to D9	Total Interest u/s 234A/234B/234C D7	Total Tax and Interest (D6+D7) D8	Total Advance Tax Paid D9
D10 to D12	Total Self Assessment Tax Paid D10	Total TDS Deducted D11	Total Prepaid Taxes (D9+D10+D11) D12
D13 to D14	Tax Payable (D8-D12, If D8>D12) D13	Refund (D12—D8, If D12 >D8) D14	

Bank Account Details (Mandatory in all cases irrespective of refund due or not)

D15 ACCOUNT No. _____ D16 MICR CODE _____

D17 Type of account: Current Savings D18 Fill only one: Refund by cheque or deposited directly into your bank account

D19 Exempt income only for reporting purposes (From Dividends, Agricultural Income < ₹ 5000/-) _____

VERIFICATION

I, _____ son/ daughter of _____ solemnly declare that to the best of my knowledge and belief, the information given in the return is correct and complete and that the amount of total income and other particulars shown therein are truly stated and are in accordance with the provisions of the Income-tax Act, 1961, in respect of income chargeable to Income-tax for the previous year relevant to the Assessment Year 2011-12.

Place > _____ > **DDMMYYYY** SIGN HERE → _____

If the return has been prepared by a Tax Return Preparer (TRP) give further details as below

Name of the TRP	TRP PIN [10 Digit]	Amount to be paid to TRP	TRP Signature
_____	_____	_____	_____

Sch IT - DETAILS OF ADVANCE TAX AND SELF ASSESSMENT TAX PAYMENTS

R1 to R5	BSR CODE(col.i)	DATE OF DEPOSIT(col.ii)	CHALLAN NO(col.iii)	TAX PAID(col.iv)
	_____	DDMMYYYY	_____	_____
	_____	DDMMYYYY	_____	_____
	_____	DDMMYYYY	_____	_____
	_____	DDMMYYYY	_____	_____
	_____	DDMMYYYY	_____	_____

NOTE⇒ (1) Enter the totals of Advance Tax and Self Assessment Tax in D9 and D10 (2) Continue in Supplementary Schedule IT if you cannot fill within Sch IT

Sch TDS1 - DETAILS OF TAX DEDUCTED AT SOURCE FROM SALARY (As per Form 16 issued by Employer(s))

S1 to S3	TAN(col.i)	NAME OF THE EMPLOYER(col.ii)	INCOME UNDER SALARY(col.iii)	TAX DEDUCTED(col.iv)
	_____	_____	_____	_____
	_____	_____	_____	_____
	_____	_____	_____	_____

NOTE⇒ (1) Enter the total of column(iv) of Sch TDS1 and Sch TDS2 in D11 (2) Continue in Supplementary Schedule TDS1 if you cannot fill within Sch TDS1

Sch TDS2- DETAILS OF TAX DEDUCTED AT SOURCE FROM INCOME OTHER THAN SALARY (As per Form 16A issued by Deductor(s))

T1 to T4	TAN(col.i)	NAME OF THE DEDUCTOR (col.ii)	TAX DEDUCTED(col.iii)	AMT OUT OF(iii) CLAIMED THIS YR(col.iv)
	_____	_____	_____	_____
	_____	_____	_____	_____
	_____	_____	_____	_____
	_____	_____	_____	_____

NOTE⇒ (1) Enter the total of column(iv) of Sch TDS1 and Sch TDS2 in D11 (2) Continue in Supplementary Schedule TDS2 if you cannot fill within Sch TDS2



PERMANENT ACCOUNT NUMBER

AY 2011-12

FIRST NAME

MIDDLE NAME

LAST NAME

SUPPLEMENTARY SCHEDULE TDS 1 (To be used only after exhausting items S1-S3 of Schedule TDS1 in main form etc)

TAN(col.i)	NAME OF THE EMPLOYER(col.ii)	INCOME UNDER SALARY(col.iii)	TAX DEDUCTED(col.iv)
S4			
S5			
S6			
S7			
S8			
S9			
S10			
S11			
S12			
S13			
S14			
S15			
S16			
S17			
S18			
S19			
S20			
S21			
S22			
S23			
S24			
S25			
S26			
S27			
S28			
S29			
S30			

	PERMANENT ACCOUNT NUMBER <input style="width: 100%;" type="text"/>	<h2 style="margin: 0;">AY 2011-12</h2>	
FIRST NAME	MIDDLE NAME	LAST NAME	
<input style="width: 100%;" type="text"/>	<input style="width: 100%;" type="text"/>	<input style="width: 100%;" type="text"/>	
SUPPLEMENTARY SCHEDULE TDS 2 <small>(To be used only after exhausting items T1-T4 of Schedule TDS2 in main form etc)</small>			
TAN (col.i)	NAME OF THE DEDUCTOR (col.ii)	TAX DEDUCTED (col.iii)	AMT OUT OF (ii) CLAIMED THIS YR (col.iv)
T5 > <input style="width: 100%;" type="text"/>	> <input style="width: 100%;" type="text"/>	> <input style="width: 100%;" type="text"/>	> <input style="width: 100%;" type="text"/>
T6 > <input style="width: 100%;" type="text"/>	> <input style="width: 100%;" type="text"/>	> <input style="width: 100%;" type="text"/>	> <input style="width: 100%;" type="text"/>
T7 > <input style="width: 100%;" type="text"/>	> <input style="width: 100%;" type="text"/>	> <input style="width: 100%;" type="text"/>	> <input style="width: 100%;" type="text"/>
T8 > <input style="width: 100%;" type="text"/>	> <input style="width: 100%;" type="text"/>	> <input style="width: 100%;" type="text"/>	> <input style="width: 100%;" type="text"/>
T9 > <input style="width: 100%;" type="text"/>	> <input style="width: 100%;" type="text"/>	> <input style="width: 100%;" type="text"/>	> <input style="width: 100%;" type="text"/>
T10 > <input style="width: 100%;" type="text"/>	> <input style="width: 100%;" type="text"/>	> <input style="width: 100%;" type="text"/>	> <input style="width: 100%;" type="text"/>
T11 > <input style="width: 100%;" type="text"/>	> <input style="width: 100%;" type="text"/>	> <input style="width: 100%;" type="text"/>	> <input style="width: 100%;" type="text"/>
T12 > <input style="width: 100%;" type="text"/>	> <input style="width: 100%;" type="text"/>	> <input style="width: 100%;" type="text"/>	> <input style="width: 100%;" type="text"/>
T13 > <input style="width: 100%;" type="text"/>	> <input style="width: 100%;" type="text"/>	> <input style="width: 100%;" type="text"/>	> <input style="width: 100%;" type="text"/>
T14 > <input style="width: 100%;" type="text"/>	> <input style="width: 100%;" type="text"/>	> <input style="width: 100%;" type="text"/>	> <input style="width: 100%;" type="text"/>
T15 > <input style="width: 100%;" type="text"/>	> <input style="width: 100%;" type="text"/>	> <input style="width: 100%;" type="text"/>	> <input style="width: 100%;" type="text"/>
T16 > <input style="width: 100%;" type="text"/>	> <input style="width: 100%;" type="text"/>	> <input style="width: 100%;" type="text"/>	> <input style="width: 100%;" type="text"/>
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T21 > <input style="width: 100%;" type="text"/>	> <input style="width: 100%;" type="text"/>	> <input style="width: 100%;" type="text"/>	> <input style="width: 100%;" type="text"/>
T22 > <input style="width: 100%;" type="text"/>	> <input style="width: 100%;" type="text"/>	> <input style="width: 100%;" type="text"/>	> <input style="width: 100%;" type="text"/>
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T26 > <input style="width: 100%;" type="text"/>	> <input style="width: 100%;" type="text"/>	> <input style="width: 100%;" type="text"/>	> <input style="width: 100%;" type="text"/>
T27 > <input style="width: 100%;" type="text"/>	> <input style="width: 100%;" type="text"/>	> <input style="width: 100%;" type="text"/>	> <input style="width: 100%;" type="text"/>
T28 > <input style="width: 100%;" type="text"/>	> <input style="width: 100%;" type="text"/>	> <input style="width: 100%;" type="text"/>	> <input style="width: 100%;" type="text"/>
T29 > <input style="width: 100%;" type="text"/>	> <input style="width: 100%;" type="text"/>	> <input style="width: 100%;" type="text"/>	> <input style="width: 100%;" type="text"/>
T30 > <input style="width: 100%;" type="text"/>	> <input style="width: 100%;" type="text"/>	> <input style="width: 100%;" type="text"/>	> <input style="width: 100%;" type="text"/>
T31 > <input style="width: 100%;" type="text"/>	> <input style="width: 100%;" type="text"/>	> <input style="width: 100%;" type="text"/>	> <input style="width: 100%;" type="text"/>

		PERMANENT ACCOUNT NUMBER	AY 2011-12
FIRST NAME	MIDDLE NAME	LAST NAME	
SUPPLEMENTARY SCHEDULE IT (To be used only after exhausting items R1-R5 of Schedule IT in main form etc)			
BSR CODE(col.i)	DATE OF DEPOSIT(col.ii)	CHALLAN NO(col.iii)	TAX PAID(col.iv)
R6	DDMMYYYY		
R7	DDMMYYYY		
R8	DDMMYYYY		
R9	DDMMYYYY		
R10	DDMMYYYY		
R11	DDMMYYYY		
R12	DDMMYYYY		
R13	DDMMYYYY		
R14	DDMMYYYY		
R15	DDMMYYYY		
R16	DDMMYYYY		
R17	DDMMYYYY		
R18	DDMMYYYY		
R19	DDMMYYYY		
R20	DDMMYYYY		
R21	DDMMYYYY		
R22	DDMMYYYY		
R23	DDMMYYYY		
R24	DDMMYYYY		
R25	DDMMYYYY		
R26	DDMMYYYY		
R27	DDMMYYYY		
R28	DDMMYYYY		
R29	DDMMYYYY		
R30	DDMMYYYY		
R31	DDMMYYYY		
R32	DDMMYYYY		

SAHAJ

Instructions for SAHAJ Income Tax Return

AY 2011-12

1 General Instructions

These instructions are guidelines for filling the particulars in this Return Form. In case of any doubt, please refer to relevant provisions of the Income-tax Act, 1961 and the Income-tax Rules, 1962.

1. Assessment Year for which this Return Form is applicable

This Return Form is applicable for assessment year 2011-2012 only, i.e., it relates to income earned in Financial Year 2010-11.

2. Who can use this Return Form

This Return Form is to be used by an individual whose total income for the assessment year 2011-12 includes:-

- Income from Salary/Pension; or
- Income from One House Property (excluding cases where loss is brought forward from previous years); or
- Income from Other Sources (excluding Winning from Lottery and Income from Race Horses)

NOTE⇒ Further, in a case where the income of another person like spouse, minor child, etc. is to be clubbed with the income of the assessee, this Return Form can be used only if the income being clubbed falls into the above income categories.

3. Who cannot use this Return Form

This Return Form can not be used by an individual whose total income for the assessment year 2011-12 includes,-

- Income from more than one house property; or
- Income from Winnings from lottery or income from Race horses; or
- Income under the head "Capital Gains", which are not exempt from tax, E.g., short-term capital gains or long-term capital gains from sale of house, plot, etc.; or
- Income from agriculture in excess of Rs. 5,000; or
- Income from Business or Profession.

4. Annexure-less Return Form

No document (including TDS certificate) should be attached to this Return Form. All such documents enclosed with this Return Form will be detached and returned to the person filing the return.

5. Manner of filing this Return Form

This Return Form can be filed with the Income Tax Department in any of the following ways,-

- by furnishing the return in a paper form;
- by furnishing the return electronically under digital signature;
- by transmitting the data in the return electronically and thereafter submitting the verification of the return in Return Form ITR-V;
- by furnishing a Bar-coded return.

Where the Return Form is furnished in the manner mentioned at 5(iii), the assessee should print out two copies of Form ITR-V.

NOTE⇒ One copy of ITR-V, duly signed by the assessee, has to be sent by ordinary post to Post Bag No. 1, Electronic City Office, Bengaluru-560100, Karnataka. The other copy may be retained by the assessee for his record.

6. Filing out the acknowledgment

Only one copy of this Return Form is required to be filed. Where the Return Form is furnished in the manner mentioned at 5(i) or at 5(iv), the acknowledgment slip attached with this Return Form should be duly filled.

7. Obligation to file return

Every individual whose total income before allowing deductions under Chapter VI-A of the Income-tax Act, exceeds the maximum amount which is not chargeable to income tax is obligated to furnish his return of income. The deductions under Chapter VI-A are mentioned in Part C of

this Return Form. The maximum amount not chargeable to income tax in case of different categories of individuals is as follows:-

Sl No.	Category	Amount
(i)	In case of individuals below the age of 65 years (other than women)	₹ 1,60,000
(ii)	In case of women below the age of 65 years	₹ 1,90,000
(iii)	In case of individuals who are of the age of 65 years or more at any time during the financial year 2010-11	₹ 2,40,000

2 Item by Item Instructions

Item	Explanation																		
A1-A3	Fill your First name, Middle name, Last name in A1, A2, A3 as per details entered in PAN Card																		
A4	Fill your Permanent Account Number. Make sure that you fill your PAN Carefully. NOTE⇒ (1) Ensure that you enter PAN on the top of every page (2) In your PAN, first five and last one digit are alphabets and the remaining four digits are numerals.																		
A5	Fill your Sex, Male or Female																		
A6	Fill your Date of birth as per PAN Database Details NOTE⇒ Always fill your Date of Birth in DD/MM/YYYY Format as given in the form																		
A7	Fill in the Ward/Circle Example: Ward 15(1), Circle 14(1) You can also fill the full Assessing Officers Code, if known.																		
A8-A13	Fill in the Communication Address NOTE⇒ A13: PIN Code is mandatory. If you have changed your address please indicate the same, so that no communication from the department goes undelivered.																		
A14	Fill in your Email Address NOTE⇒ This is important for faster communication from/with the department.																		
A15	Fill in STD Code in the first 5 digits and then fill the phone number in the next 8 digits NOTE⇒ This is important for faster communication from/with the department.																		
A16	Fill in your Mobile No. NOTE⇒ This is important for faster communication from/with the department																		
A17	Shade the appropriate circle. <ul style="list-style-type: none"> Correct and Incorrect Filling methods for the circles are shown below • You need to fill or shade only one circle completely. <table border="0"> <tr> <td>Correct</td> <td><input checked="" type="radio"/> A17</td> <td>Fill in if you belong to</td> <td><input type="radio"/> Government</td> <td><input type="radio"/> PSU</td> <td><input type="radio"/> Others</td> </tr> <tr> <td>Incorrect</td> <td><input checked="" type="radio"/> A17</td> <td>Fill in if you belong to</td> <td><input checked="" type="radio"/> Government</td> <td><input checked="" type="radio"/> PSU</td> <td><input checked="" type="radio"/> Others</td> </tr> <tr> <td></td> <td><input checked="" type="radio"/> A17</td> <td>Fill in if you belong to</td> <td><input type="radio"/> Government</td> <td><input checked="" type="radio"/> PSU</td> <td><input checked="" type="radio"/> Others</td> </tr> </table>	Correct	<input checked="" type="radio"/> A17	Fill in if you belong to	<input type="radio"/> Government	<input type="radio"/> PSU	<input type="radio"/> Others	Incorrect	<input checked="" type="radio"/> A17	Fill in if you belong to	<input checked="" type="radio"/> Government	<input checked="" type="radio"/> PSU	<input checked="" type="radio"/> Others		<input checked="" type="radio"/> A17	Fill in if you belong to	<input type="radio"/> Government	<input checked="" type="radio"/> PSU	<input checked="" type="radio"/> Others
Correct	<input checked="" type="radio"/> A17	Fill in if you belong to	<input type="radio"/> Government	<input type="radio"/> PSU	<input type="radio"/> Others														
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	<input checked="" type="radio"/> A17	Fill in if you belong to	<input type="radio"/> Government	<input checked="" type="radio"/> PSU	<input checked="" type="radio"/> Others														
A18	Shade the appropriate circle. <table border="1"> <thead> <tr> <th>Tax Payable Status</th> <th>Shade Circle</th> </tr> </thead> <tbody> <tr> <td>Total Tax Payable (D8) < Total Prepaid Taxes (D12)</td> <td>1</td> </tr> <tr> <td>Total Tax Payable (D8) > Total Prepaid Taxes (D12)</td> <td>2</td> </tr> <tr> <td>Total Tax Payable (D8) = Total Prepaid Taxes (D12)</td> <td>3</td> </tr> </tbody> </table>	Tax Payable Status	Shade Circle	Total Tax Payable (D8) < Total Prepaid Taxes (D12)	1	Total Tax Payable (D8) > Total Prepaid Taxes (D12)	2	Total Tax Payable (D8) = Total Prepaid Taxes (D12)	3										
Tax Payable Status	Shade Circle																		
Total Tax Payable (D8) < Total Prepaid Taxes (D12)	1																		
Total Tax Payable (D8) > Total Prepaid Taxes (D12)	2																		
Total Tax Payable (D8) = Total Prepaid Taxes (D12)	3																		
A19	Shade the appropriate circle. For non residents certain deductions are not available (For more details, refer Income Tax Act 1961)																		

A20	Shade the appropriate circle.	
	How the return is filed	
	Voluntarily before the due date under section 139(1)	1
	Voluntarily after the due date under section 139(4)	2
	Revised return under section 139(5)	3
	In response to notice under section 142(1)	4
A21	Provide the receipt number of Original return and Date of filing of Original Return	
	NOTE: It is mandatory for you to provide these details in case of a revised return	
B1	Fill the details of salary/ pension as given in TDS certificate (Form 16) issued by the employer. However, if the income has not been computed correctly in Form No. 16, please make the correct computation and fill the same in this item. Further, in case there was more than one employer during the year, please furnish in this item the details in respect of total salaries from various employers. NOTE: If Form 16 is not issued, compute as per Work Sheet-1 given in this instructions	
	NOTE: If loss, mark the negative sign with in the brackets at left	
B2	Compute as per Work Sheet-2 given in this instructions NOTE: If loss, mark the negative sign with in the brackets at left	
B3	Compute as per Work Sheet-3 given in this instructions NOTE: If loss, mark the negative sign with in the brackets at left	
B4	Add Items B1, B2, B3 NOTE: If loss, mark the negative sign with in the brackets at left. However, this loss cannot be carried forward to next year using this form. Use ITR-2 for Carry Forward of Losses	
C1	Some of the major items for deduction under this section are- amount paid or deposited towards life insurance, contribution to Provident Fund set up by the Government, recognised Provident Fund, contribution by the assessee to an approved superannuation fund, subscription to National Savings Certificates, tuition fees, payment/ repayment for purposes of purchase or construction of a residential house and many other investments)(for full list, please refer to section 80C of the Income-tax Act)	
	NOTE: As provided in section 80CCE, aggregate amount of deduction under section 80C, 80CCC and 80CCD shall not exceed one lakh rupees	
C2	Deduction in respect of contributions to certain pension funds.	
C3	Deduction in respect of contributions to pension scheme of Central Government. NOTE: For Employees- Least of amount Paid or 10% of salary For Others-Least of amount paid or 10% of Gross Total Income	
C4	Deduction in respect of Subscriptions to Long Term Infrastructure Bonds NOTE: Upper limit for 80CCF deduction is ₹ 20000/-	
C5	Deduction in respect of Medical Insurance Premium and contributions to CGHS	
	NOTE: Upper limit for 80D Deduction that can be claimed 1. Self , Spouse, Dependent Children(aggregate)- ₹ 15,000/- 2. Parents- ₹ 15,000/- 3. Senior Citizen- ₹ 20,000/-	
C6	Deduction in respect of maintenance including medical treatment of dependent who is a person with disability NOTE: Upper Limit for 80DD Deduction 1. General — ₹ 50,000/- 2. Severe Disability — ₹ 1,00,000/-	
C7	Deduction in respect of medical treatment, etc.	
	NOTE: Upper limit for 80DDB Deduction that can be claimed 1. General - Actual or ₹ 40,000/- whichever is less 2. Senior Citizen -Actual or ₹ 60,000/- whichever is less	
C8	Deduction in respect of interest on loan taken for higher education	
C9	Deduction in respect of donations to certain funds, charitable institutions, etc. NOTE: Compute as per Work Sheet-4.	
C10	Deduction in respect of rents paid NOTE: Maximum Deduction ₹ 24,000/-	
C11	Deduction in respect of certain donations for scientific research or rural development	
C12	Deduction in respect of contributions given by any person to political parties	
C13	Deduction in case of a person with disability	
	NOTE: Upper Limit for 80U Deduction 1. General — ₹ 50,000/- 2. Severe Disability — ₹ 1,00,000/-	
C14	Add C1 to C13	
C15	Subtract C14 from B4 and enter the corresponding amount in C15.	
	NOTE: To carry forward loss in C15 use ITR 2	
D1	Compute as per tax computation table given in page 3 on Taxable Total Income(C15)	
D2	Calculate the education cess including secondary and higher education cess at the rate of three per cent of D1	
D3	D3=D1+D2	
D4	Claim the relief, if any, allowable under section 89 in respect of arrears or advances of salary received during the year.	
D5	Enter details of any relief under sections 90/91	
D6	D6=D3-D4-D5	
D7	Calculate 234A, 234B, 234C interest according to the provisions of Income Tax Act 1961 and enter the amount in D7.	
D8	D8=D6+D7	
D9	Add the relevant Advance Tax Details given in Column iv of Schedule IT and write the amount in D9	
	NOTE: Enter only those Tax payments made by you	
D10	Add the relevant Self Assessment Tax Details given in Column iv of Schedule IT and write the amount in D10	
D11	Add the relevant TDS Deducted given in Column iv of Schedule TDS1 and Column iv of Schedule TDS2 and write the amount in D11	
	NOTE: Verify your TDS & Tax payment details using FORM 26AS. For more details visit www.incometaxindia.gov.in	
D12	Add D9, D10 and D11	
D13	If D8 is greater than D12, then fill the amount of Tax Payable in D13	
	NOTE: Shade the Tax Payable Circle in A19 If D12 is equal to D8, then fill the '0' in D13. This will indicate that there is zero Tax Balance	

Tax Computation Table

(i) In case of **individuals (other than women and individuals who are of the age of 65 years or more at any time during the financial year 2010-11)** -

Income (In ₹)	Tax Liability (In ₹)
1 Upto ₹ 1,60,000	Nil
2 Between ₹ 1,60,001 - ₹ 5,00,000	10% of income in excess of ₹ 1,60,000
3 Between ₹ 5,00,001 - ₹ 8,00,000	₹ 34,000 + 20% of income in excess of ₹ 5,00,000
4 Above ₹ 8,00,000	₹ 94,000 + 30% of income in excess of ₹ 8,00,000

(ii) In case of **women (other than women who are of the age of 65 years or more at any time during the financial year 2010-11)**-

Income (In ₹)	Tax Liability (In ₹)
1 Upto ₹ 1,90,000	Nil
2 Between ₹ 1,90,001 - ₹ 5,00,000	10% of income in excess of ₹ 1,90,000
3 Between ₹ 5,00,001 - ₹ 8,00,000	₹ 31,000 + 20% of income in excess of ₹ 5,00,000
4 Above ₹ 8,00,000	₹ 91,000 + 30% of income in excess of ₹ 8,00,000

(iii) In case of **individuals who are of the age of 65 years or more at any time during the financial year 2010-11-**

Income (In ₹)	Tax Liability (In ₹)
1 Upto ₹ 2,40,000	Nil
2 Between ₹ 2,40,001 - ₹ 5,00,000	10% of income in excess of ₹ 2,40,000
3 Between ₹ 5,00,001 - ₹ 8,00,000	₹ 26,000 + 20% of income in excess of ₹ 5,00,000
4 Above ₹ 8,00,000	₹ 86,000 + 30% of income in excess of ₹ 8,00,000

D14 If D12 is greater than D8, than fill the amount of Refund in D14

NOTE: Shade the Tax Refundable Circle in A19

D15-D18 It is mandatory for you provide the Bank details in all situations irrespective of whether you have refund or not. Please quote the MICR code of the bank if you desire to receive the refund through electronic clearing system (ECS).

D19 Please enter details of all exempt incomes, e.g., Dividend Income, Income from agriculture not exceeding ₹ 5,000, etc **NOTE:** Compute as per Work Sheet-5 given in this instructions

Verification Please complete the Verification Section and Sign in the box given. Without a valid signature, your return will not be accepted by the Income Tax Department

TRP Details This return can be prepared by a Tax Return Preparer (TRP) also in accordance with the Tax Return Preparer Scheme, 2006 dated 28th November, 2006. If the return has been prepared by him, the relevant details have to be filled by him and the return has to be countersigned by him in the space provided in the said item.

Please enter details of tax payments, i.e., advance tax and self-assessment tax made by you.

Sch IT **NOTE:** If you have more than **Five Self Assessment and Advance Tax Details** to be entered, then fill Supplementary Schedule IT and attach the same with the return

Sch TDS 1 Please furnish the details in accordance with Form 16 issued by the employer(s) in respect of salary income. Further in order to enable the Income Tax Department to provide accurate, quicker and full credit for taxes deducted at source, the taxpayer must ensure to quote complete details of every TDS transaction.

NOTE: If you have more than Four Form 16 Details to be entered, then fill Supplementary Schedule TDS1 and attach the same with the return

Sch TDS 2 Please furnish the details in accordance with Form 16A issued by a person in respect of interest income and other sources of income. **NOTE:** If you have more than **Four Form 16A** Details to be entered, then fill Supplementary Schedule TDS2 and attach the same with the return

3 Worksheet 3,4 and 5

WORKSHEET-3: How to Compute Income from Other Sources

OTHER SOURCES

1 Income other than from owning race horse(s):-

(a) Taxable Dividends, Gross **1a**

(b) Interest, Gross **1b**

(c) Rental income from machinery, plants, buildings etc, Gross **1c**

(d) Others, Gross **1d**

(e) Total (1a + 1b + 1c + 1d) **1e**

(f) Deductions under section 57:-

(i) Expenses **fi**

(ii) Depreciation **fii**

(iii) Total **fiii**

2 To be mentioned in Item B3 of this Return Form → Total Income from other sources ((1e – fiii)) **2**

NOTE⇒ Please include the income, if any, of specified persons such as minor children while computing the income under this head, if FD etc is in their name.

WORKSHEET-4: How to Compute deductions under section 80G

DETAILS OF DONATIONS

A Donations entitled for 100% deduction (eg Prime Minister's National Relief Fund)

Name of donee	Amount of donation
(i) <input type="text"/>	Ai <input type="text"/>
(ii) <input type="text"/>	Aii <input type="text"/>
(iii) Total	Aiii <input type="text"/>

B Donations entitled for 50% deduction where donee not required to be approved under section 80G(5) (vi) (eg Prime Minister's Drought Relief Fund)

Name of donee	Amount of donation
(i) <input type="text"/>	Bi <input type="text"/>
(ii) <input type="text"/>	Bii <input type="text"/>
(iii) Total	Biii <input type="text"/>

C Donations entitled for 50% deduction where donee is required to be approved under section 80G(5) (vi) (eligible donation is restricted to 10 % of Total Income after other deductions)

Name and address of donee	Amount of donation
(i) <input type="text"/>	Ci <input type="text"/>
(ii) <input type="text"/>	Cii <input type="text"/>
(iii) Total	Ciii <input type="text"/>

D To be mentioned in Item C9 of this Return Form → Total Deduction under Section 80 G = {100% of Aiii + 50 % of Biii + 50% of [Maximum of 10% of Total Income After Other Deductions ((Item B4 – Sum of Items (C1 to C13 except C9)) or (Ciii))} **D**

WORKSHEET-5: How to Compute Exempt Income

EXEMPT INCOME

How to compute Exempt Income (Income not to be included in Total Income)

1 Interest income **1**

2 Dividend income **2**

3 Net Agriculture income (not exceeding Rs. 5,000) **3**

4 Others, including exempt income of minor child **4**

5 To be mentioned in Item D19 of this Return Form → Total (1+2+3+4) **5**

Print Specifications for SAHAJ and SUGAM

1. **SAHAJ** and **SUGAM** Forms notified by CBDT are the simplest, technology enabled and taxpayer friendly return forms. These have been designed to facilitate error free and faster digitization. This is expected to curtail processing cycle and expedite issue of refunds. Taxpayers are advised to follow steps enumerated below.
 - a. *SAHAJ and SUGAM forms are colored forms with standard features like registration marks, barcode etc.* Taxpayers are advised to collect the forms from Income Tax offices, Tax-melas, TRP's and submit the same to the income tax department.
 - b. Taxpayers can also download the forms from the website and print using a color printer on an A4 size white paper. It is advisable for taxpayer to set the properties in printing options to "**fit to page**" and print the forms on a good quality white paper.
 - c. Taxpayers may also use the Fillable forms, being made available by the department shortly.
 - d. The Acknowledgement copy [*ITR-V Acknowledgement*] to be retained by taxpayer may be printed in black & white.

FORM ITR-2

FORM ITR-2

INDIAN INCOME TAX RETURN
 [For Individuals and HUFs not having Income from Business or Profession]
 (Please see Rule 12 of the Income-tax Rules, 1962)
 (Also see attached instructions)

Assessment Year

2011 - 12

Part A-GEN GENERAL

PERSONAL INFORMATION	First name	Middle name	Last name	PAN
	Flat/Door/Block No	Name Of Premises/Building/Village		Status (Tick) <input checked="" type="checkbox"/> Individual <input type="checkbox"/> HUF
	Road/Street/Post Office	Area/locality		Date of Birth (DD/MM/YYYY) (in case of individual) / /
	Town/City/District	State	Pin code	Sex (in case of individual) (Tick) <input checked="" type="checkbox"/> Male <input type="checkbox"/> Female
	Residential/Office Phone Number with STD code	Mobile No.		Employer Category (if in employment) (Tick) <input checked="" type="checkbox"/> Govt <input type="checkbox"/> PSU <input type="checkbox"/> Others
	Email Address	Income Tax Ward/Circle		
FILING STATUS	Return filed (Tick) [Please see instruction number-7] <input type="checkbox"/> Before due date -139(1) <input type="checkbox"/> After due date -139(4) <input type="checkbox"/> Revised Return- 139(5)			
	OR In response to notice <input type="checkbox"/> 142(1) <input type="checkbox"/> 148 <input type="checkbox"/> 153A/153C			
	If revised, then enter Receipt No and Date of filing original return (DD/MM/YYYY) / /			
	Residential Status (Tick) <input checked="" type="checkbox"/> Resident <input type="checkbox"/> Non-Resident <input type="checkbox"/> Resident but Not Ordinarily Resident			
	Whether this return is being filed by a representative assessee? (Tick) <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No			
	If yes, please furnish following information -			
(a)	Name of the representative			
(b)	Address of the representative			
(c)	Permanent Account Number (PAN) of the representative			

PART-B

Part B - TI Computation of total income

TOTAL INCOME	1	Salaries (6 of Schedule S)	1
	2	Income from house property (3c of Schedule HP) (enter nil if loss)	2
	3	Capital gains	
	a	Short term	
	i	Short-term (u/s 111A) (enter nil, if loss) (A5 of Schedule CG)	3ai
	ii	Short-term (others) (A6 of Schedule CG)	3aii
	iii	Total short-term (3ai + 3aii) (A4 of Schedule CG)	3aiii
	b	Long-term (B5 of Schedule CG) (enter nil if loss)	3b
	c	Total capital gains (3aiii + 3b) (enter nil if 3c is a loss)	3c
	4	Income from other sources	
a	from sources other than from owning race horses and Winnings from Lottery (3 of Schedule OS)	4a	
b	from owning race horses (4c of Schedule OS) (enter nil if loss)	4b	
c	Total (a + b) (enter nil if 4c is a loss)	4c	
5	Total (1+2+3c +4c)	5	

Do not write or stamp in this area (Space for bar code)

For Office Use Only

Receipt No

Date

Seal and Signature of receiving official

1. Substituted by IT (Third Amdt.) Rules, 2011, w.r.e.f. 1-4-2011.

6	Losses of current year set off against 5 (total of 2vi and 3vi of Schedule CYLA)	6
7	Balance after set off current year losses (5-6) (also total of column 4 of Schedule CYLA)	7
8	Brought forward losses set off against 7 (2vi of Schedule BFLA)	8
9	Gross Total income (7-8)(also 3vii of Schedule BFLA)	9
10	Deductions under Chapter VI-A (n of Schedule VIA)	10
11	Total income (9-10)	11
12	Net agricultural income/ any other income for rate purpose (4 of Schedule EI)	12
13	'Aggregate income' (11+12)	13
14	Losses of current year to be carried forward (total of row xi of Schedule CFL)	14

Part B - TTI		Computation of tax liability on total income	
COMPUTATION OF TAX LIABILITY	1	Tax payable on total income	
		a	Tax at normal rates 1a
		b	Tax at special rates (11 of Schedule SI) 1b
		c	Tax Payable on Total Income (1a + 1b) 1c
	2	Education cess, including secondary and higher education cess on 1c 2	
	3	Gross tax liability (1c+ 2) 3	
	4	Tax relief	
		a	Section 89 4a
		b	Section 90 4b
		c	Section 91 4c
	d	Total (4a + 4b+4c) 4d	
5	Net tax liability (3 – 4d) 5		
6	Interest payable		
	a	For default in furnishing the return (section 234A) 6a	
	b	For default in payment of advance tax (section 234B) 6b	
	c	For deferment of advance tax (section 234C) 6c	
	d	Total Interest Payable (6a+6b+6c) 6d	
7	Aggregate liability (5 + 6d) 7		
TAXES PAID	8	Taxes Paid	
		a	Advance Tax (from Schedule-II) 8a
		b	TDS (total of column 7 of Schedule-TDS1 and column 7 of Schedule-TDS2) 8b
		c	Self Assessment Tax(from Schedule-II) 8c
	d	Total Taxes Paid (8a+8b+8c) 8d	
9	Amount payable (Enter if 7 is greater than 8d, else enter 0) 9		
10	Refund (If 8d is greater than 7) 10		
REFUND	11	Enter your bank account number (mandatory in all cases)	
	12	Do you want your refund by <input type="checkbox"/> cheque, or <input type="checkbox"/> deposited directly into your bank account? (tick as applicable EF)	
	13	Give additional details of your bank account	
	MICR Code	Type of Account (tick as applicable EF)	<input type="checkbox"/> Savings <input type="checkbox"/> Current

VERIFICATION

I, _____ son/ daughter of _____ holding permanent account number _____ solemnly declare that to the best of my knowledge and belief, the information given in the return and schedules thereto is correct and complete and that the amount of total income and other particulars shown therein are truly stated and are in accordance with the provisions of the Income-tax Act, 1961, in respect of income chargeable to Income-tax for the previous year relevant to the Assessment Year 2011-2012.

Place _____ Date _____ Sign here →

14	If the return has been prepared by a Tax Return Preparer (TRP) give further details as below:	
Identification No. of TRP	Name of TRP	Counter Signature of TRP
_____	_____	_____
If TRP is entitled for any reimbursement from the Government, amount thereof		15

Schedule S		Details of Income from Salary	
SALARIES	Name of Employer		PAN of Employer (optional)
	Address of employer		Town/City State Pin code
	1	Salary (Excluding all exempt/ non-exempt allowances, perquisites & profit in lieu of salary as they are shown separately below)	1
	2	Allowances exempt under section 10 (Not to be included in 6 below)	2
	3	Allowances not exempt (refer Form 16 from employer)	3
	4	Value of perquisites (refer Form 16 from employer)	4
	5	Profits in lieu of salary (refer Form 16 from employer)	5
6	Income chargeable under the Head 'Salaries' (1+3+4+5)	6	

Schedule HP		Details of Income from House Property (Please refer to instructions)		
HOUSE PROPERTY	1	Address of property 1		
		Town/ City	State PIN Code	
		(Tick) <input checked="" type="checkbox"/> if let out <input type="checkbox"/>	Name of Tenant	PAN of Tenant (optional)
	a	Annual lettable value/ rent received or receivable (higher if let out for whole of the year, lower if let out for part of the year)	1a	
	b	The amount of rent which cannot be realized	1b	
	c	Tax paid to local authorities	1c	
	d	Total (1b + 1c)	1d	
	e	Balance (1a – 1d)	1e	
	f	30% of 1e	1f	
	g	Interest payable on borrowed capital	1g	
	h	Total (1f + 1g)	1h	
	i	Income from house property 1 (1e – 1h)	1i	
	2	Address of property 2		
		Town/ City	State PIN Code	
		(Tick) <input checked="" type="checkbox"/> if let out <input type="checkbox"/>	Name of Tenant	PAN of Tenant (optional)
	a	Annual lettable value/ rent received or receivable (higher if let out for whole of the year, lower if let out for part of the year)	2a	
	b	The amount of rent which cannot be realized	2b	
	c	Tax paid to local authorities	2c	
	d	Total (2b + 2c)	2d	
	e	Balance (2a – 2d)	2e	
	f	30% of 2e	2f	
g	Interest payable on borrowed capital	2g		
h	Total (2f + 2g)	2h		
i	Income from house property 2 (2e – 2h)	2i		
3	Income under the head "Income from house property"			
a	Rent of earlier years realized under section 25A/AA	3a		
b	Arrears of rent received during the year under section 25B after deducting 30%	3b		
c	Total (3a + 3b + 1i + 2i)	3c		
NOTE ▶ Please include the income of the specified persons referred to in Schedule SPI while computing the income under this head				

Schedule CG		Capital Gains	
CAPITAL GAINS	A	Short-term capital gain	
	1	From assets in case of non-resident to which first proviso to section 48 is applicable	
	2	From assets in the case of others	
	a	Full value of consideration	2a
	b	Deductions under section 48	
	i	Cost of acquisition	bi
	ii	Cost of Improvement	bii
	iii	Expenditure on transfer	biii
	iv	Total (i + ii + iii)	biv
	c	Balance (2a – biv)	2c

	d	Loss, if any, to be ignored under section 94(7) or 94(8) (enter positive values only)	2d		
	e	Deduction under section 54B/54D	2e		
	f	Short-term capital gain (2c + 2d – 2e)		2f	
3		Amount deemed to be short term capital gains under sections 54B/54D/54EC/ 54ED/54G/ 54GA		A3	
4		Total short term capital gain (1 + 2f + A3)		A4	
5		Short term capital gain under section 111A included in 4		A5	
6		Short term capital gain other than referred to in section 111A (A4 – A5)		A6	
B Long term capital gain					
1		Asset in case of non-resident to which first proviso to section 48 is applicable		1	
2		Asset in the case of others where proviso under section 112(1) is not exercised			
	a	Full value of consideration	2a		
	b	Deductions under section 48			
		i Cost of acquisition after indexation	bi		
		ii Cost of improvement after indexation	bii		
		iii Expenditure on transfer	biii		
		iv Total (bi + bii + biii)	biv		
	c	Balance (2a – biv)	2c		
	d	Deduction under sections 54/54B/54D/54EC/54F 54G/54GA	2d		
	e	Net balance (2c – 2d)		2e	
3		Asset in the case of others where proviso under section 112(1) is exercised			
	a	Full value of consideration	3a		
	b	Deductions under section 48			
		i Cost of acquisition without indexation	bi		
		ii Cost of improvement without indexation	bii		
		iii Expenditure on transfer	biii		
		iv Total (bi + bii + biii)	biv		
	c	Balance (3a – biv)	3c		
	d	Deduction under sections 54/54B/54D/54EC/54F	3d		
	e	Net balance (3c-3d)		3e	
4		Amount deemed to be long term capital gains under sections 54/54B/54D/54EC/54ED/54F		B4	
5		Total long term capital gain 1 + 2e [(enter 2e as nil if loss) + 3e (enter 3e as nil if loss) + 4)]		B5	
C Income chargeable under the head “CAPITAL GAINS” (A4 + B5) (enter B5 as nil, if loss)					
D Information about accrual/receipt of capital gain					
		Date	Upto 15/9 (i)	16/9 to 15/12 (ii)	16/12 to 15/3 (iii)
					16/3 to 31/3 (iv)
1		Long- term where proviso under section 112(1) is exercised (Without Indexation)- Code in SI Schedule is 22, Tax Rate is 10% ; Enter only positive value from Item B3e of Schedule CG AFTER loss adjustment under this category in Schedule CYLA and BFLA, if any.			
2		Long- term where proviso under section 112(1) is NOT exercised (With Indexation)- Code in SI Schedule is 21, Tax Rate is 20% ; Enter only positive value from Item (B5-B3e) of Schedule CG AFTER loss adjustment under this category in Schedule CYLA and BFLA, if any.			
3		Short-term under 111A- Code in SI Schedule is 1A, Tax Rate is 15% ; Enter only positive value from Item A7 of Schedule CG AFTER loss adjustment under this category in Schedule CYLA and BFLA, if any.			
4		Short-term OTHERS- Taxed at normal rates ; Enter only positive value from Item A8 of Schedule CG AFTER loss adjustment under this category in Schedule CYLA and BFLA, if any.			
NOTE ▶ Please include the income of the specified persons referred to in Schedule SPI while computing the income under this head					

Schedule OS Income from other sources

OTHER SOURCES	1	Income		
	a	Dividends, Gross	1a	
	b	Interest, Gross	1b	
	c	Rental income from machinery, plants, buildings,	1c	
	d	Others, Gross (excluding income from owning race horses)	1d	
	e	Total (1a + 1b + 1c + 1d)		1e
	f	Deductions under section 57:-		

	i	Expenses / Deductions	fi	
	ii	Depreciation	fii	
	iii	Total	fiiii	
	g	Balance (1e – fiii)		1g
2	Winnings from lotteries, crossword puzzles, races, etc.			2
3	Income from other sources (other than from owning race horses and Winnings from Lottery) (1g + 2) (enter 1g as nil, if loss)			3
4	Income from owning and maintaining race horses			
	a	Receipts	4a	
	b	Deductions under section 57 in relation to (4)	4b	
	c	Balance (4a – 4b)		4c
5	Income chargeable under the head "Income from other sources" (3 + 4c) (enter 4c as nil if loss and take 4c loss figure to Schedule CFL)			5

NOTE ▶ Please include the income of the specified persons referred to in Schedule SPI while computing the income under this head.

Schedule CYLA Details of Income after Set off of current year losses

Sl.No	Head/ Source of Income	Income of current year (Fill this column only if income is zero or positive)	House property loss of the current year set off		Other sources loss (other than loss from race horses) of the current year set off	Current year's Income remaining after set off
			Total loss (3c of Schedule –HP)			
			Total loss (3 of Schedule-OS)			
		1	2	3	4=1-2-3	
	Loss to be adjusted					
i	Salaries					
ii	House property					
iii	Short-term capital gain					
iv	Long term capital gain					
v	Other sources (incl. profit from owning race horses but excluding winnings from lottery)					
vi	Total loss set off					
vii	Loss remaining after set-off out of 2 & 3					

Schedule BFLA Details of Income after Set off of Brought Forward Losses of earlier years

Sl. No.	Head/ Source of Income	Income after set off, if any, of current year's losses as per 4 of Schedule CYLA	Brought forward loss set off		Current year's income remaining after set off
			1	2	
i	Salaries				
ii	House property				
iii	Short-term capital gain				
iv	Long-term capital gain				
v	Other sources (profit from owning race horses but excluding winnings from lottery)				
vi	Total of brought forward loss set off				
vii	Current year's income remaining after set off Total (i3 + ii3 + iii3 + iv3 + v3)				

Schedule CFL Details of Losses to be carried forward to future years

	Assessment Year	Date of Filing (DD/MM/YYYY)	House property loss	Short-term capital loss	Long-term Capital loss	Other sources loss (from owning race horses)
i	2003-04					
ii	2004-05					
iii	2005-06					
iv	2006-07					
v	2007-08					
vi	2008-09					
vii	2009-10					
viii	2010-11					
ix	Total of earlier year losses					

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x	Adjustment of above losses in Schedule BFLA				
xi	2011-12 (Current year losses)				
xii	Total loss Carried Forward to future years				

Schedule VIA		Deductions under Chapter VI-A (Section)			
TOTAL DEDUCTIONS	a	80C		h	80E
	b	80CCC		i	80G
	c	80CCD		j	80GG
	d	80CCF		k	80GGA
	e	80D		l	80GGC
	f	80DD		m	80RRB
	g	80DDB		n	80U
	o	Total deductions (total of a to n)			

Schedule SPI		Income of specified persons (spouse, minor child etc) includable in income of the assessee (income of the minor child to be included after Rs. 1,500 per child)							
Sl No	Name of person	PAN of person (optional)					Relationship	Nature of Income	Amount (Rs)
1									
2									
3									

Schedule SI		Income chargeable to Income tax at special rates [Please see instruction No.9(iii) for section code and rate of tax]									
SPECIAL RATE	Sl No	Section code	Special rate (%)	Income i	Tax thereon ii	Sl No	Section code	Special rate (%)	Income i	Tax thereon ii	
		1	1A	15			6				
	2	22	10			7					
	3	21	20			8					
	4	5BB	30			9					
	5					10					
	11	Total (1ii to 10 ii)									

Schedule EI		Details of Exempt Income (Income not to be included in Total Income)	
EXEMPT INCOME	1	Interest income	1
	2	Dividend income	2
	3	Long-term capital gains from transactions on which Securities Transaction Tax is paid	3
	4	Net Agriculture income /any other income for rate purpose	4
	5	Others, including exempt income of minor children	5
	6	Total (1+2+3+4+5)	6

Schedule IT		Details of Advance Tax and Self Assessment Tax Payments of Income-tax									
TAX PAYMENTS	Sl No	BSR Code			Date of Deposit (DD/MM/YYYY)			Serial Number of Challan			Amount (Rs)
		i									
	ii										
	iii										
	iv										
	v										
NOTE ► Enter the totals of Advance tax and Self Assessment tax in Sl No. 8a & 8c of Part B-TTI											

Schedule TDS1 Details of Tax Deducted at Source from Salary [As per Form 16 issued by Employer(s)]

TDS ON SALARY	Sl No	Tax Deduction Account Number (TAN) of the Employer	Name of the Employer	Income chargeable under Salaries	Total tax deducted
	(1)	(2)	(3)	(4)	(5)
	i				
ii					

Schedule TDS2 Details of Tax Deducted at Source on Income [As per Form 16 A issued by Deductor(s)]

TDS ON OTHER INCOME	Sl No	Tax Deduction Account Number (TAN) of the Deductor	Name of the Deductor	Total tax deducted	Amount out of (4) claimed for this year
	(1)	(2)	(3)	(4)	(5)
	i				
ii					

NOTE ▶ Please enter total of column 7 of Schedule-TDS1 and column 7 of Schedule-TDS2 in 8(b) of Part B-TTI

Instructions for filling FORM ITR-2

These instructions are guidelines for filling the particulars in this Return Form. In case of any doubt, please refer to relevant provisions of the Income-tax Act, 1961 and the Income-tax Rules, 1962.

- 1. Assessment Year for which this Return Form is applicable**
This Return Form is applicable for assessment year 2011-2012 only, i.e., it relates to income earned in Financial Year 2010-11.
- 2. Who can use this Return Form**
This Return Form is to be used by an individual or a Hindu Undivided Family whose total income for the assessment year 2011-12 includes:-
 - (a) **Income from Salary / Pension; or**
 - (b) **Income from House Property; or**
 - (c) **Income from Capital Gains; or**
 - (c) **Income from Other Sources** (including Winning from Lottery and Income from Race Horses).
Further, in a case where the income of another person like spouse, minor child, etc. is to be clubbed with the income of the assessee, this Return Form can be used where such income falls in any of the above categories.
- 3. Who cannot use this Return Form**
This Return Form should not be used by an individual whose total income for the assessment year 2011-12 includes Income from Business or Profession.
- 4. Annexure-less Return Form**
 - (i) No document (including TDS certificate) should be attached to this Return Form. All such documents enclosed with this Return Form will be detached and returned to the person filing the return.
 - (ii) Tax-payers are advised to match the taxes deducted/collected/paid by or on behalf of them with their **Tax Credit Statement** (Form 26AS). (Please refer to www.incometaxindia.gov.in)
- 5. Manner of filing this Return Form**
This Return Form can be filed with the Income Tax Department in any of the following ways, -
 - (i) by furnishing the return in a paper form;
 - (ii) by furnishing the return electronically under digital signature;
 - (iii) by transmitting the data in the return electronically and thereafter submitting the verification of the return in Return Form ITR-V;
 - (iv) by furnishing a Bar-coded return.
 Where the Return Form is furnished in the manner mentioned at 5(iii), the assessee should print out two copies of Form ITR-V. One copy of ITR-V, duly signed by the assessee, has to be sent by ordinary post to Post Bag No. 1, Electronic City Office, Bangalore-560100 (Karnataka). The other copy may be retained by the assessee for his record.
- 6. Filing out the acknowledgement**
Only one copy of this Return Form is required to be filed. Where the Return Form is furnished in the manner mentioned at 5(i) or at 5(iv), the acknowledgement slip attached with this Return Form should be duly filled.
- 7. Codes for filling this Return Form**
Under the heading 'Filing Status' in the Return Form details have to be filled regarding section under which the return is being filed by ticking in the relevant box provided therein.
- 8. Obligation to file return**
Every individual whose total income before allowing deductions under Chapter VI-A of the Income-tax Act, exceeds the maximum amount which is not chargeable to income tax is obligated to furnish his return of income. The deductions under Chapter VI-A are mentioned in item 5 ("Income and Deductions") of this Return Form. The maximum amount not chargeable to income tax in case of different categories of individuals is as follows:-

Sl.No.	Category	Amount (in Rs.)
i.	In case of individuals below the age of 65 years (other than women)	1,60,000
ii.	In case of women below the age of 65 years	1,90,000
iii.	In case of individuals who are of the age of 65 years or more at any time during the financial year 2010-11.	2,40,000

- 9. Codes for filling out this Form**
 - (i) Some of the details in this form have to be filled out on the basis of the relevant codes.
 - (ii) These codes have been provided below against the sections provided therein.
 - (iii) In **Schedule SI**, the codes for the sections which prescribed special rates of tax for the income mentioned therein are as under:-

Sl. No.	Nature of income	Section	Rate of tax	Section code
1.	Tax on accumulated balance of recognised provident fund	111	To be computed in accordance with rule 9(1) of Part A of fourth Schedule	1
2.	Short term capital gains	111A	15	1A
3.	Long term capital gains (with indexing)	112	20	21
4.	Long term capital gains (without indexing)	112	10	22
5.	Dividends, interest and income from units purchase in foreign currency	115A(1)(a)	20	5A1a
6.	Income from royalty or technical services where agreement entered between 31.3.1961 to 31.3.1976 in case of royalty and between 29.2.1964 and 31.3.1976, and agreement is approved by the	Paragraph EII of Part I of first schedule of Finance Act	50	FA

	Central Government.			
7.	Income from royalty & technical services	115A(1)(b) if agreement is entered on or before 31.5.1997	30	5A1b1
8.	Income from royalty & technical services	115A(1)(b) if agreement is entered on or after 31.5.1997 but before 1.6.2005	20	5A1b2
9.	Income from royalty & technical services	115A(1)(b) if agreement is on or after 1.6.2005	10	5A1b3
10.	Income received in respect of units purchase in foreign currency by a off-shore fund	115AB(1)(a)	10	5AB1a
11.	Income by way of long-term capital gains arising from the transfer of units purchase in foreign currency by a off-shore fund	115AB(1)(b)	10	5AB1b
12.	Income from bonds or GDR purchases in foreign currency or capital gains arising from their transfer in case of a non-resident	115AC(1)	10	5AC
13.	Income from GDR purchased in foreign currency or capital gains arising from their transfer in case of a resident	115ACA(1)	10	5ACA
14.	Profits and gains of life insurance business	115B	12.5	5B
15.	Winnings from lotteries, crosswords puzzles, races including horse races, card games and other games of any sort or gambling or betting of any form or nature whatsoever	115BB	30	5BB
16.	Tax on non-residents sportsmen or sports associations	115BBA	10	5BBA
17.	Tax on income from units of an open – ended equity oriented fund of the Unit Trust of India or of Mutual Funds	115BBB	10	5BBB
18.	Anonymous donations	115BBC	30	5BBC
19.	Investment income	115E(a)	20	5Ea
20.	Income by way of long term capital gains	115E(b)	10	5Eb
21.	Double Taxation Agreement			DTAA

10. SCHEME OF THE LAW- Before filling out the form, you are advised to read the following-

(1) Computation of total income

- (a) "Previous year" is the financial year (1st April to the following 31st March) during which the income in question has been earned. "Assessment Year" is the financial year immediately following the previous year.
- (b) Total income is to be computed as follows, in the following order:
 - (i) Classify all items of income under the following **heads of income-** (A) Salaries; (B) "Income from house property"; (C) "Capital gains"; and (D) "Income from other sources". (There may be no income under one or more of these heads of income).
 - (ii) Compute taxable income of the current year (i.e., the previous year) under each head of income separately in the Schedules which have been structured so as to help you in making these computations as per provisions of the Income-tax Act. These statutory provisions decide what is to be included in your income, what you can claim as an expenditure or allowance and how much, and also what you cannot claim as an expenditure/allowance.
 - (iii) Set off current year's headwise loss(es) against current year's headwise income(s) as per procedures prescribed by the law. A separate Schedule is provided for such set-off.
 - (iv) Set off, as per procedures prescribed by the law, loss(es) and/or allowance(s) of earlier assessment year(s) brought forward. Also, compute loss(es) and/or allowance(s) that could be set off in future and is (are) to be carried forward as per procedures prescribed by the law. Separate Schedules are provided for this.
 - (v) Aggregate the headwise end-results as available after (iv) above; this will give you "gross total income".
 - (vi) From gross total income, subtract, as per procedures prescribed by the law, "deductions" mentioned in Chapter VIA of the Income-tax Act. The result will be the total income. Besides, calculate agricultural income for rate purposes.

(2) Computation of income-tax, education cess including secondary and higher education cess and interest in respect of income chargeable to tax

- (a) Compute income-tax payable on the total income. Special rates of tax are applicable to some *specified* items. Include agricultural income, as prescribed, for rate purposes, in the tax computation procedure..
- (b) Add Education cess including secondary and higher education cess as prescribed on the tax payable plus surcharge.
- (c) Claim relief(s) as prescribed by the law, on account of arrears or advances of salary received during the year or of double taxation and calculate balance tax payable.
- (d) Add interest payable as prescribed by the law to reach total tax and interest payable.
- (e) Deduct the amount of prepaid taxes, if any, like "tax deducted at source", "advance-tax" and "self-assessment-tax". The result will be the tax payable (or refundable).

(3) Obligation to file return

- (a) Every individual and HUF has to furnish the return of his income if his total income before allowing deduction under Chapter VI-A (i.e., if his gross total income referred to in item 9 of Part B-TI of this Form) exceeds the maximum amount which is not chargeable to income tax [Rs. 1,60,000/- in case of individuals below the age of 65 years (other than women) and HUF, Rs. 1,90,000/- in case of women below the age of 65 years, and Rs. 2,40,000/- in case of individuals who are of the age of 65 years or more at any time during the financial year 2010-11].
- (b) The losses, if any, (item-14 of Part B-TI of this Form) shall not be allowed to be carried forward unless the return has been filed on or before the due date.

11. SCHEME OF THE FORM

The Scheme of this form follows the scheme of the law as outlined above in its basic form. The Form has been divided into two parts. It also has fourteen work tables (referred to as "schedules"). The parts and the schedules are described below:-

- (i) The first part, i.e., Part-A is spread over half of the first page of the return. It mainly seeks general information requiring identificatory and other data.
- (ii) The second part, i.e., Part-B on page 1 and page 2 is regarding an outline of the total income and tax computation in respect of income chargeable to tax.
- (iii) on page 2, there is a space for furnishing details of the transmission of the data of the form if the form has been furnished in the manner mentioned at instruction No.5(iii).
- (iv) After Part-B, on page 2, there is a space for a statutory verification..
- (v) On top of page 3, there are details to be filled if the return has been prepared by a Tax Return Preparer.
- (vi) On pages 3 to 6, there are 14 Schedules details of which are as under-
 - (a) Schedule-S: Computation of income under the head Salaries.
 - (b) Schedule-HP: Computation of income under the head Income from House Property
 - (c) Schedule-CG: Computation of income under the head Capital gains.
 - (d) Schedule-OS: Computation of income under the head Income from other sources.
 - (e) Schedule-CYLA: Statement of income after set off of current year's losses
 - (f) Schedule-BFLA: Statement of income after set off of unabsorbed loss brought forward from earlier years.
 - (g) Schedule- CFL: Statement of losses to be carried forward to future years.
 - (h) Schedule-VIA: Statement of deductions (from total income) under Chapter VIA.
 - (i) Schedule SPI: Statement of income arising to spouse/ minor child/ son's wife or any other person or association of persons to be included in the income of assessee in Schedules-HP, CG and OS.
 - (j) Schedule-SI: Statement of income which is chargeable to tax at special rates
 - (k) Schedule-El: Statement of Income not included in total income (exempt incomes)
 - (l) Schedule-IT: Statement of payment of advance-tax and tax on self-assessment.
 - (m) Schedule-TDS1: Statement of tax deducted at source on salary.
 - (n) Schedule-TDS2: Statement of tax deducted at source on income other than salary.

12. GUIDANCE FOR FILLING OUT PARTS AND SCHEDULES**(1) General**

- (i) All items must be filled in the manner indicated therein; otherwise the return maybe liable to be held defective or even invalid.
- (ii) If any schedule is not applicable score across as "--NA--".
- (iii) If any item is inapplicable, write "NA" against that item.
- (iv) Write "Nil" to denote nil figures.
- (v) Except as provided in the form, for a negative figure/ figure of loss, write "-" before such figure.
- (vi) All figures should be rounded off to the nearest one rupee. However, the figures for total income/ loss and tax payable be finally rounded off to the nearest multiple of ten rupees.

(2) Sequence for filling out parts and schedules

You are advised to follow the following sequence while filling out the form;

- (i) Part A- General on page 1.
- (ii) Schedules
- (iii) Part B-TI and Part B-TTI
- (iv) Verification
- (v) Details relating to TRP and counter signature of TRP if return is prepared by him.

13. PART-GEN

Most of the details to be filled out in Part-Gen of this form are self-explanatory. However, some of the details mentioned below are to be filled out as explained hereunder:-

- (a) e-mail address and phone number are **optional**;
- (b) In case of an individual, for "**employer category**", Government category will include Central Government/ State Governments employees. PSU category will include public sector companies of Central Government and State Government;
- (c) The **code for sections** under which the return is filed be filled as per code given in instruction No.7.
- (d) In case the return is being filed by you in a representative capacity, please ensure to quote your PAN in item "PAN of the representative assessee". In case the PAN of the person being represented is not known or he has not got a PAN in India, the item for PAN in the first line of the return may be left blank. It may please be noted that in the first line of this form, the name of the person being represented be filled.

14. SCHEDULES

- (a) **Schedule-S-** In case there were more than one employer during the year, please give the details of the last employer. Further, in case, there were more than one employer simultaneously during the year, please furnish the details of the employer you have got more salary. Fill the details of salary as given in TDS certificate(s) (Form 16) issued by the employer(s). However, if the income has not been computed correctly in Form No. 16, please make the correct computation and fill the same in this item. Further, in case there was more than one employer during the year, please furnish in this item the details in respect of total salaries from various employers. In the case of salaried employees, perquisites have to be valued by the employee in accordance with the notification No. SO.3245(E) dated 18.12.2009, for the purposes of including the same in their salary income.
- (b) **Schedule-HP,-** In case, a single house property is owned by the assessee which is self-occupied and interest paid on the loan taken for the house property is to be claimed as a deduction. This schedule needs to be filled up. If there are two or more than two house properties, the details of remaining properties may be filled in a separate sheet in the format of this Schedule and attach this sheet with this return. The results of all the properties have to be filled in last row of this Schedule. Following points also need to be clarified,-
- Annual lettable value means the amount for which the house property may reasonably be expected to let from year to year, on a notional basis: Deduction for taxes paid to local authority shall be available only if the property is in the occupation of a tenant, and such taxes are borne by the assessee and not by the tenant and have actually been paid during the year.
 - Deduction is available for unrealized rent in the case of a let-out property. If such a deduction has been taken in an earlier assessment year, and such unrealized rent is actually received in the assessment year in question, the unrealized rent so received is to be shown in item 3a of this Schedule.
 - Item 3b** of this Schedule relates to enhancement of rent with retrospective effect. Here mention back years' extra rent received thereon, and claim deduction @ 30% of such arrear rent received.
- (c) **Schedule-CG,-**
If more than one short-term capital asset has been transferred, make the combined computation for all the assets. Similarly, make the combined computation for all the assets if more than one long-term capital asset has been transferred.
- For computing long-term capital gain, cost of acquisition and cost of improvement may be indexed, if required, on the basis of following cost inflation index notified by the Central Government for this purpose.

Sl.No.	Financial Year	Cost Inflation Index	Sl.No.	Financial Year	Cost Inflation Index
1.	1981-82	100	16.	1996-97	305
2.	1982-83	109	17.	1997-98	331
3.	1983-84	116	18.	1998-99	351
4.	1984-85	125	19.	1999-00	389
5.	1985-86	133	20.	2000-01	406
6.	1986-87	140	21.	2001-02	426
7.	1987-88	150	22.	2002-03	447
8.	1988-89	161	23.	2003-04	463
9.	1989-90	172	24.	2004-05	480
10.	1990-91	182	25.	2005-06	497
11.	1991-92	199	26.	2006-07	519
12.	1992-93	223	27.	2007-08	551
13.	1993-94	244	28.	2008-09	582
14.	1994-95	259	29.	2009-10	632
15.	1995-96	281	30.	2010-11	711

- Sections 54/ 54B/ 54D/ 54EC/ 54F mentioned in this schedule provides exemption on capital gains subject to fulfillment of certain conditions. Exemption under some of these sections is available only in respect of long-term capital gains. Therefore, please ensure that you are claiming the benefit of any of these sections correctly in accordance with the provisions of law.
 - Item C** of this Schedule computes the total of short-term capital gain and long-term capital gain (item A4 + item B5). Please note that if balance in item B5 in respect of long-term capital gain is a loss, same shall not be set-off against short-term capital gain. In such situation, the figure of B5 would be entered as 0 and then the figures of item A4 be added in item C.
- (d) **Schedule-OS,-**
- Against item 1a and 1b, enter the details of gross income by way of dividend and interest which is not exempt.
 - Against item 1c, indicate the gross income from machinery, plant or furniture let on hire and also such income from building where its letting is inseparable from the letting of the said machinery, plant or furniture, if it is not chargeable to income-tax under the head "Profits and gains of business or profession".
 - Income from owning and maintaining race horses is to be computed separately as loss from owning and maintaining race horses cannot be adjusted against income from any other source, and can only be carried forward for set off against similar income in subsequent years.
 - Winnings from lotteries, crossword puzzles, races, etc., are subject to special rates of tax; hence a separate item is provided and the income from these can not be adjusted against the losses arising under the head Income from other sources.
 - Item 5** of this Schedule computes the total income chargeable under the head "Income from other sources" (item 3 + item 4c). If balance in item 4c which shows income from owning and maintaining race horses is a loss, please enter 0 and enter the total of item 3.
- (e) **Schedule-SPI,-**

- (i) Furnish the details of income of spouse, minor child, etc., if to be included in your income in accordance with provisions of Chapter V of the Income-tax Act.
- (ii) The income entered into this Schedule has to be included in the respective head.
- (iii) Section 10(32) provides exemption to extent of Rs. 1,500/- in respect of minor's income for the purpose of clubbing. Therefore, exclude Rs. 1,500/- from the income of the minor while clubbing the income of the minor in the respective head. However, if income of the minor is to be clubbed in various heads, total exclusion should not exceed Rs. 1,500/-.
- (f) **Schedule-CYLA.-**
- (i) Mention only positive incomes of the current year in column 1, headwise, in the relevant rows.
- (ii) Mention total current year's loss(es), if any, from house property and other sources (other than losses from race horses) in the first row against 'loss to be adjusted'. These losses are to be set off against income under other heads in accordance with the provisions of section 71. The amount set off against the income of respective heads has to be entered into in columns 2 and 3, in the relevant rows.
- (iii) Mention the end-result of the above inter-head set-off(s) in column 4, headwise, in relevant rows.
- (iv) Total of loss set off out of column 2 and column 3 have to be entered into row vi.
- (v) The losses remaining for set off have to be entered in row vii.
- (g) **Schedule-BFLA.-**
- (i) Mention only positive incomes of the current year (after set-off of loss in Schedule-CYLA in column 1, headwise in relevant rows.
- (ii) The amount of brought forward losses which may be set off are to be entered in column 2 in respective rows except under the head 'Salary' where no loss could be brought forward.
- (iii) The end result of the set off will be entered in column 3 in respective heads. The total of column 3 shall be entered in row vii which shall give the amount of **gross total income**.
- (iv) The total amount of brought forward losses set off during the year shall be entered in column 2 of row vi.
- (h) **Schedule-CFL.-**
- (i) In this Schedule, the summary of losses carried from earlier years, set off during the year and to be carried forward for set off against income of future years is to be entered.
- (ii) The losses under the head "house property", short term capital loss and long term capital loss, losses from other sources (other than losses from race horses) are allowed to be carried forward for 8 years. However, loss from owning and maintaining race horses can be carried forward only for 4 assessment years.
- (i) **Schedule-VIA.-**
- The total of the deductions allowable is limited to the amount of gross total income. For details of deductions allowable, the provisions of the Chapter VI-A may kindly be referred to. Details of deductions which are available to an individual/ HUF not carrying out any business or profession are as under:-
- (i) Section 80C (Some of the major items for deduction under this section are- amount paid or deposited towards life insurance, contribution to Provident Fund set up by the Government, recognised Provident Fund, contribution by the assessee to an approved superannuation fund, subscription to National Savings Certificates, tuition fees, payment/ repayment for purposes of purchase or construction of a residential house and many other investments)(for full list, please refer to section 80C of the Income-tax Act) (Please note that as provided in section 80CCE, aggregate amount of deduction under section 80C, 80CCC and 80CCD shall not exceed one lakh rupees).
- (ii) Section 80CCC (Deduction in respect of contributions to certain pension funds).
- (iii) Section 80CCD (Deduction in respect of contributions to pension scheme of Central Government).
- (iv) Section 80CCF (Deduction in respect of long-term infrastructure bonds, not exceeding twenty-thousand rupees during the previous year).
- (v) Section 80D (Deduction in respect of Medical Insurance Premium and contributions to CGHS).
- (vi) Section 80DD (Deduction in respect of maintenance including medical treatment of dependent who is a person with disability)
- (vii) Section 80DDB (Deduction in respect of medical treatment, etc.)
- (viii) Section 80E (Deduction in respect of interest on loan taken for higher education)
- (ix) Section 80G (Deduction in respect of donations to certain funds, charitable institutions, etc.)
- (x) Section 80GG (Deduction in respect of rents paid)
- (xi) Section 80GGA (Deduction in respect of certain donations for scientific research or rural development)
- (xii) Section 80GGC (Deduction in respect of contributions given by any person to political parties)
- (xiii) Section 80RRB (Deduction in respect of royalty on patents)
- (xiv) Section 80U (Deduction in case of a person with disability)
- (j) **Schedule-SI.-**
- Mention the income included in Schedule-CG and Schedule-OS which is chargeable to tax at special rates. The codes for relevant section and special rate of taxes are given in Instruction No.9(iii)
- (k) **Schedule-EI.-**
- (i) Furnish the details of income like agriculture income, interest, dividend, etc. which is exempt from tax.
- (ii) The details may be filled on cash basis unless there is any provision/ requirement to declare them on accrual basis.
- (l) **Schedule-IT.-**
- (i) In this schedule, fill out the details of payment of advance income-tax and income-tax on self-assessment.
- (ii) The details of BSR Code of the bank branch (7 digits), date of deposit, challan serial no., and amount paid should be filled out from the acknowledgement counterfoil.
- (m) **Schedules-TDS1 and TDS2.-**
- (i) In these Schedules fill the details of tax deducted on the basis of TDS certificates(Form 16 or Form No.16A) issued by the deductor(s).
- (ii) Details of each certificate are to be filled separately in the rows. In case rows provided in these Schedules are not sufficient, please attach a table in same format.

(iii) It may please be noted that the TDS certificates are not to be annexed with the Return Form.

15. PART B-TI-COMPUTATION OF TOTAL INCOME

- (i) In this part the summary of income computed under various heads and as set off in Schedule CFLA and Schedule BFLA is to be entered.
(ii) Every entry which have to be filled on basis of Schedules have been crossed referenced and hence doesn't need any further clarification.

16. PART B-TI-COMPUTATION OF TAX LIABILITY ON TOTAL INCOME

- (a) in **item 1a**, fill the details of gross tax liability to be computed at the applicable rate. The tax liability has to be computed at the rates given as under:-

(i) In case of **individuals (other than women and individuals who are of the age of 65 years or more at any time during the financial year 2010-11) -**

Income (In Rs.)	Tax Liability (In Rs.)
Upto Rs. 1,60,000	Nil
Between Rs. 1,60,001 - Rs. 5,00,000	10% of income in excess of Rs. 1,60,000
Between Rs. 5,00,001 – Rs. 8,00,000	Rs. 34,000 + 20% of income in excess of Rs. 5,00,000
Above Rs.8,00,000	Rs. 94,000 + 30% of income in excess of Rs. 8,00,000

(ii) In case of **women (other than women who are of the age of 65 years or more at any time during the financial year 2010-11)-**

Income (In Rs.)	Tax Liability (In Rs.)
Upto Rs. 1,90,000	Nil
Between Rs. 1,90,001 - Rs. 5,00,000	10% of income in excess of Rs. 1,90,000
Between Rs. 5,00,001 – Rs. 8,00,000	Rs. 31,000 + 20% of income in excess of Rs. 5,00,000
Above Rs.8,00,000	Rs. 91,000 + 30% of income in excess of Rs. 8,00,000

(iii) In case of **individuals who are of the age of 65 years or more at any time during the financial year 2010-11-**

Income (In Rs.)	Tax Liability (In Rs.)
Upto Rs. 2,40,000	Nil
Between Rs. 2,40,001 – Rs. 5,00,000	10% of income in excess of Rs. 2,40,000
Between Rs. 5,00,001 – Rs. 8,00,000	Rs. 26,000 + 20% of income in excess of Rs. 5,00,000
Above Rs.8,00,000	Rs. 86,000 + 30% of income in excess of Rs. 8,00,000

- (b) In **item No. 3**, calculate the education cess including secondary and higher education cess at the rate of three per cent of [item No.1c + item No. 2]
(c) In **item No. 5a**, claim the relief if any allowable under section 89 in respect of arrears or advances of salary received during the year.
(d) In **item 9b**, please furnish the details in accordance with Form 16 issued by the employer(s) in respect of salary income and Form 16A issued by any other person in respect of interest income.
(e) **item 14-** Please quote the MICR code of the bank if you desire to receive the refund through electronic clearing system (ECS). However, it may not be possible to issue the refund in all cases through ECS since the ECS facility is not available across the country.

17. VERIFICATION

- (a) In case the return is to be furnished in a paper format or electronically under digital signature or in a bar coded return format, please fill up the required information in the Verification. Strike out whatever is not applicable. Please ensure that the verification has been signed before furnishing the return. Write the designation of the person signing the return.
(b) In case the return is to be furnished electronically in the manner mentioned in instruction no. 5(iii), please fill verification form (Form ITR-V)
(c) Please note that any person making a false statement in the return or the accompanying schedules shall be liable to be prosecuted under section 277 of the Income-tax Act, 1961 and on conviction be punishable under that section with rigorous imprisonment and with fine.

18. DETAILS REGARDING TAX RETURN PREPARER (TRP)

- (a) This return can be prepared by a Tax Return Preparer (TRP) also in accordance with the Tax Return Preparer Scheme, 2006 dated 28th November, 2006.
(b) If the return has been prepared by him, the relevant details have to be filled by him in item No.16 below verification and the return has to be countersigned by him in the space provided in the said item.
(c) The Tax Return Preparer is entitled to a maximum fees of Rs. 250/- from the taxpayer. TRP is also entitled to a reimbursement from the Government for following three years as under:-
(i) 3 per cent of the tax paid on the income declared in the return for the first eligible assessment year (first eligible assessment year means the assessment year if no return has been furnished for at least three assessment years preceding to that assessment year);
(ii) 2 per cent of the tax paid on the income declared in the return for the second eligible assessment year (second eligible assessment year means the assessment year immediately following the first eligible assessment year);
(iii) 1 per cent of the tax paid on the income declared in the return for the third eligible assessment year (third eligible assessment year means the assessment year immediately following the second eligible assessment year);
(d) For these three eligible assessment years, the TRP will be eligible for the fee from the taxpayer to the extent of the amount by which Rs. 250/- exceeds the amount of reimbursement receivable by him from the Government.

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FORM ITR-3

FORM ITR-3	INDIAN INCOME TAX RETURN	Assessment Year
	[For Individuals/HUFs being partners in firms and not carrying out business or profession under any proprietorship] (Please see rule 12 of the Income-tax Rules, 1962) (Also see attached instructions)	2011 - 12

Part A-GEN GENERAL

PERSONAL INFORMATION	First name	Middle name	Last name	PAN
	Flat/Door/Block No	Name Of Premises/Building/Village		Status (Tick) <input checked="" type="checkbox"/> Individual <input type="checkbox"/> HUF
	Road/Street/Post Office	Area/locality		Date of Birth (DD/MM/YYYY) (in case of individual) / /
	Town/City/District	State	Pin code	Sex (in case of individual) (Tick) <input checked="" type="checkbox"/> Male <input type="checkbox"/> Female
	Residential/Office Phone Number with STD code	Mobile No.		Employer Category (if in employment) (Tick) <input checked="" type="checkbox"/> Govt <input type="checkbox"/> PSU <input type="checkbox"/> Others
FILING STATUS	Email Address			Income Tax Ward/Circle
	Return filed (Tick) [Please see instruction number-7] <input type="checkbox"/> Before due date -139(1) <input type="checkbox"/> After due date -139(4) <input type="checkbox"/> Revised Return- 139(5)			
	OR In response to notice <input type="checkbox"/> 142(1) <input type="checkbox"/> 148 <input type="checkbox"/> 153A/153C			
	If revised, then enter Receipt No and Date of filing original return (DD/MM/YYYY) / /			
	Residential Status (Tick) <input checked="" type="checkbox"/> Resident <input type="checkbox"/> Non-Resident <input type="checkbox"/> Resident but Not Ordinarily Resident			
	Whether this return is being filed by a representative assessee? (Tick) <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No			
If yes, please furnish following information -				
(a)	Name of the representative			
(b)	Address of the representative			
(c)	Permanent Account Number (PAN) of the representative			

PART-B

Part B - TI Computation of total income

TOTAL INCOME	1	Salaries (6 of Schedule S)	1
	2	Income from house property (3c of Schedule HP) (enter nil if loss)	2
	3	Profits and gains from business or profession (6vi of Schedule BP) (enter nil if loss)	3
	4	Capital gains	
	a	Short term	
	i	Short-term (u/s 111A) (enter nil, if loss) (A5 of Schedule CG)	4ai
	ii	Short-term (others) (A6 of Schedule CG)	4aii
	iii	Total short-term (4ai + 4aii) (enter nil if loss) (A4 of Schedule CG)	4aiii
b	Long-term (B5 of Schedule CG) (enter nil if loss)	4b	
c	Total capital gains (4aiii + 4b) (enter nil if 4c is a loss)	4c	

Do not write or stamp in this area (Space for bar code)

For Office Use Only

Receipt No

Date

Seal and Signature of receiving official

1. Substituted by IT (Third Amdt.) Rules, 2011, w.r.e.f. 1-4-2011.

5	Income from other sources		
	a from sources other than from owning race horses (3 of Schedule OS) (enter nil if loss)	5a	
	b from owning race horses (4c of Schedule OS) (enter nil if loss)	5b	
	c Total (5a + 5b) (enter nil if 5c is a loss)	5c	
6	Total (1+2+3+4c+5c)	6	
7	Losses of current year set off against 6 (total of 2vii,3vii and 4vii of Schedule CYLA)	7	
8	Balance after set off current year losses (6-7) (also total of column 5 of Schedule CYLA)	8	
9	Brought forward losses set off against 8 (2vii of Schedule BFLA)	9	
10	Gross Total income (8-9)(also 3viii of Schedule BFLA)	10	
11	Deductions under Chapter VI-A (o of Schedule VIA)	11	
12	Total income (10 – 11)	12	
13	Net agricultural income/ any other income for rate purpose (4 of Schedule EI)	13	
14	'Aggregate income' (12+ 13)	14	
15	Losses of current year to be carried forward (xi of Schedule CFL)	15	

Part B - TTI Computation of tax liability on total income

COMPUTATION OF TAX LIABILITY	1	Tax payable on total income		
		a Tax at normal rates	1a	
		b Tax at special rates (11 of Schedule SI)	1b	
		c Tax Payable on Total Income (1a + 1b)	1c	
	2	Education cess, including secondary and higher education cess on 1c	2	
	3	Gross tax liability (1c+ 2)	3	
	4	Tax relief		
		a Section 89	4a	
		b Section 90	4b	
		c Section 91	4c	
	d Total (4a + 4b+4c)	4d		
5	Net tax liability (3 – 4d)	5		
TAXES PAID	6	Interest payable		
		a For default in furnishing the return (section 234A)	6a	
		b For default in payment of advance tax (section 234B)	6b	
		c For deferment of advance tax (section 234C)	6c	
		d Total Interest Payable (6a+6b+6c)	6d	
7	Aggregate liability (5 + 6d)	7		
TAXES PAID	8	Taxes Paid		
		a Advance Tax (from Schedule-IT)	8a	
		b TDS (total of column 7 of Schedule-TDS1 and column 7 of Schedule-TDS2)	8b	
		c Self Assessment Tax(from Schedule-IT)	8c	
	d Total Taxes Paid (8a+8b+8c)	8d		
9	Amount payable (Enter if 7 is greater than 8d, else enter 0)	9		
10	Refund (If 8d is greater than 7)	10		
REFUND	11	Enter your bank account number (mandatory in all cases)		
	12	Do you want your refund by <input type="checkbox"/> cheque, or <input type="checkbox"/> deposited directly into your bank account? (tick as applicable EF)		
	13	Give additional details of your bank account		
	MICR Code		Type of Account (tick as applicable EF) <input type="checkbox"/> Savings <input type="checkbox"/> Current	

VERIFICATION

I, _____ son/ daughter of _____, holding permanent account number _____, solemnly declare that to the best of my knowledge and belief, the information given in the return and schedules thereto is correct and complete and that the amount of total income and other particulars shown therein are truly stated and are in accordance with the provisions of the Income-tax Act, 1961, in respect of income chargeable to Income-tax for the previous year relevant to the Assessment Year 2011-2012.

Place

Date

Sign here →

1.353 RETURN FORM - PARTNERS NOT HAVING PROPRIETORSHIP BUSINESS ITR-3

14 If the return has been prepared by a Tax Return Preparer (TRP) give further details below:

Identification No. of TRP	Name of TRP	Counter Signature of TRP
If TRP is entitled for any reimbursement from the Government, amount thereof		15

Schedule S Details of Income from Salary

SALARIES	Name of Employer		PAN of Employer (optional)	
	Address of employer		Town/City	State
			Pin code	
	1	Salary (Excluding all exempt/ non-exempt allowances, perquisites & profit in lieu of salary as they are shown separately below)	1	
	2	Allowances exempt under section 10 (Not to be included in 6 below)	2	
	3	Allowances not exempt (refer Form 16 from employer)	3	
	4	Value of perquisites (refer Form 16 from employer)	4	
5	Profits in lieu of salary (refer Form 16 from employer)	5		
6	Income chargeable under the Head 'Salaries' (1+3+4+5)	6		

Schedule HP Details of Income from House Property (Please refer to instructions)

HOUSE PROPERTY	1	Address of property 1		Town/ City	State	PIN Code
		(Tick) <input checked="" type="checkbox"/> if let out <input type="checkbox"/>		Name of Tenant		PAN of Tenant (optional)
	a	Annual lettable value/ rent received or receivable (higher if let out for whole of the year, lower if let out for part of the year)		1a		
	b	The amount of rent which cannot be realized		1b		
	c	Tax paid to local authorities		1c		
	d	Total (1b + 1c)		1d		
	e	Balance (1a – 1d)		1e		
	f	30% of 1e		1f		
	g	Interest payable on borrowed capital		1g		
	h	Total (1f + 1g)		1h		
	i	Income from house property 1 (1e – 1h)		1i		
	2	Address of property 2		Town/ City	State	PIN Code
		(Tick) <input checked="" type="checkbox"/> if let out <input type="checkbox"/>		Name of Tenant		PAN of Tenant (optional)
	a	Annual lettable value/ rent received or receivable (higher if let out for whole of the year, lower if let out for part of the year)		2a		
	b	The amount of rent which cannot be realized		2b		
	c	Tax paid to local authorities		2c		
	d	Total (2b + 2c)		2d		
	e	Balance (2a – 2d)		2e		
	f	30% of 2e		2f		
g	Interest payable on borrowed capital		2g			
h	Total (2f + 2g)		2h			
i	Income from house property 2 (2e – 2h)		2i			
3	Income under the head "Income from house property"					
a	Rent of earlier years realized under section 25A/AA		3a			
b	Arrears of rent received during the year under section 25B after deducting 30%		3b			
c	Total (3a + 3b + 1i + 2i)		3c			

NOTE ▶ Please include the income of the specified persons referred to in Schedule SPI while computing the income under this head

Schedule IF Information regarding partnership firms in which you are partner

Sl. No.	Number of firms in which you are partner				
	Name of the Firm	PAN of the firm	Percentage Share in the profit of the firm	Amount of share in the profit	Capital balance on 31 st March in the firm
					i
1					ii
2					
3					
4					
5					
6	Total				

Schedule BP		Details of Income from Firms of which partner				
Sl. No.	Firm PAN (From Schedule-IF)	Salary, bonus, commission or remuneration received from the firm	Interest received from the firm on the capital	Total ii + iii	Expenses in relation to iv	Net Income iv - v
	ii		iii	Iv	v	vi
	1					
2						
3						
4						
5						
6	Total					

NOTE ▶ Please include the income of the specified persons referred to in Schedule SPI while computing the income under this head

Schedule CG		Capital Gains	
A Short-term capital gain			
1	From assets in case of non-resident to which first proviso to section 48 is applicable		1
2	From assets in the case of others		
	a	Full value of consideration	2a
	b	Deduction under section 48	
		i Cost of acquisition	bi
		ii Cost of Improvement	bii
		iii Expenditure on transfer	biii
		iv Total (i + ii + iii)	biv
	c	Balance (2a – biv)	2c
	d	Loss, if any, to be ignored under section 94(7) or 94(8) (enter positive values only)	2d
	e	Deduction under section 54B/54D	2e
	f	Short-term capital gain (2c + 2d – 2e)	2f
3	Amount deemed to be short term capital gains under sections 54B/54D/54EC/ 54ED/54G/ 54GA		A3
4	Total short term capital gain (1 + 2f + A3)		A4
5	Short term capital gain under section 111A included in 4		A5
6	Short term capital gain other than referred to in section 111A (A4 – A5)		A6
B Long term capital gain			
1	Asset in case of non-resident to which first proviso to section 48 is applicable		1
2	Asset in the case of others where proviso under section 112(1) not exercised		
	a	Full value of consideration	2a
	b	Deductions under section 48	
		i Cost of acquisition after indexation	bi
		ii Cost of improvement after indexation	bii
		iii Expenditure on transfer	biii
		iv Total (bi + bii +biii)	biv
	c	Balance (2a – biv)	2c
	d	Deduction under sections 54/54B/54D/54EC/54F 54G/54GA	2d
	e	Net balance (2c – 2d)	2e
3	Asset in the case of others where proviso under section 112(1) is exercised		
	a	Full value of consideration	3a
	b	Deductions under section 48	
		i Cost of acquisition without indexation	bi
		ii Cost of improvement without indexation	bii
		iii Expenditure on transfer	biii
		iv Total (bi + bii +biii)	biv

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	c	Balance (3a – biv)	3c	
	d	Deduction under sections 54/54B/54D/54EC/54F	3d	
	e	Net balance (3c – 3d)		3e
4		Amount deemed to be long term capital gains under sections 54/54B/54D/54EC/54ED/54F		B4
5		Total long term capital gain (1 + 2e [(enter 2e as nil if loss) + 3e (enter 3e as nil if loss) + 4])		B5
C		Income chargeable under the head “CAPITAL GAINS” (A4 + B5) (enter B5 as nil, if loss)		C

D Information about accrual/receipt of capital gain					
	Date	Upto 15/9 (i)	16/9 to 15/12 (ii)	16/12 to 15/3 (iii)	16/3 to 31/3 (iv)
1	Long-term where proviso under section 112(1) is exercised (Without Indexation)- Code in SI Schedule is 22, Tax Rate is 10% ; Enter only positive value from Item B3e of Schedule CG AFTER loss adjustment under this category in Schedule CYLA and BFLA, if any.				
2	Long-term where proviso under section 112(1) is NOT exercised (With Indexation)- Code in SI Schedule is 21, Tax Rate is 20% ; Enter only positive value from Item (B5-B3e) of Schedule CG AFTER loss adjustment under this category in Schedule CYLA and BFLA, if any.				
3	Short-term under 111A- Code in SI Schedule is 1A, Tax Rate is 15% ; Enter only positive value from Item A7 of Schedule CG AFTER loss adjustment under this category in Schedule CYLA and BFLA, if any.				
4	Short-term OTHERS- Taxed at normal rates; Enter only positive value from Item A8 of Schedule CG AFTER loss adjustment under this category in Schedule CYLA and BFLA, if any.				

NOTE ► Please include the income of the specified persons referred to in Schedule SPI while computing the income under this head

Schedule OS Income from other sources

OTHER SOURCES	1	Income			
		a	Dividends, Gross	1a	
		b	Interest, Gross	1b	
		c	Rental income from machinery, plants, buildings,	1c	
		d	Others, Gross (excluding income from owning race horses)	1d	
		e	Total (1a + 1b + 1c + 1d)	1e	
		f	Deductions under section 57:-		
			i	Expenses / Deductions	fi
			ii	Depreciation	fii
			iii	Total	fiiii
		g	Balance (1e – fiiii)		1g
		2	Winnings from lotteries, crossword puzzles, races, etc.		2
		3	Income from other sources (other than from owning race horses) (1g + 2) (enter 1g as nil, if loss)		3
		4	Income from owning and maintaining race horses		
			a	Receipts	4a
		b	Deductions under section 57 in relation to (4)	4b	
		c	Balance (4a – 4b)	4c	
	5	Income chargeable under the head “Income from other sources” (3 + 4c) (enter 4c as nil if loss and take 4c loss figure to Schedule CYLA)		5	

NOTE ► Please include the income of the specified persons referred to in Schedule SPI while computing the income under this head

Schedule CYLA Details of Income after set-off of current years losses

CURRENT YEAR LOSS ADJUSTMENT	Sl.No	Head/ Source of Income	Income of current year (Fill this column only if income is zero or positive)	House property loss of the current year set off	Business Loss	Other sources loss (other than loss from race horses) of the current year set off	Current year's Income remaining after set off
				Total loss (3c of Schedule –HP)	Total loss (6vi of Schedule-BP)	Total loss (3 of Schedule-OS)	
				1	2	3	
		Loss to be adjusted ->					
i		Salaries					
ii		House property					
iii		Business or profession					
iv		Short-term capital gain					

⁷⁸[**Form of report for claiming deduction under section 80JJAA.**

19AB. Report of an accountant which is required to be furnished by the assessee along with the return of income under clause (b) of sub-section (2) of section 80JJAA shall be in Form No. 10DA.]

⁷⁹[**Form of certificate to be furnished under sub-section (3) of section 80QQB.**

19AC. (1) The certificate, which is required to be furnished by the assessee under sub-section (3) of section 80QQB from a person responsible for making payment to the assessee, shall be in Form No. 10CCD.

(2) The certificate in Form No. 10CCD duly verified by the person responsible for making the payment to the assessee is required to be furnished along with the return of income.]

***Prescribed authority for purposes of sub-section (2) of section 80RRB and form of certificate to be furnished under sub-section (2) of section 80RRB.**

⁸⁰[**19AD.** (1) For the purposes of sub-section (2) of section 80RRB, the prescribed authority shall be the Controller, referred to in clause (b) of sub-section (1) of section 2 of the Patents Act, 1970 (39 of 1970)⁸¹.

(2) The certificate, which is required to be furnished by the assessee under sub-section (2) of section 80RRB from the prescribed authority shall be in Form No. 10CCE.]

***Form of report of accountant to be furnished under sub-section (3) of section 80LA.**

⁸²[**19AE.** The report of the accountant, which is required to be furnished by the assessee under sub-section (3) of section 80LA shall be in Form No. 10CCF.]

⁸³[**Guidelines for approval** ⁸⁴[**under clause (xix) of sub-section (2) of section 80C or] under clause (xvi) of sub-section (2) of section 88.**

20. The Board, before granting approval to a public company, ⁸⁴[under clause (xix) of sub-section (2) of section 80C or] under clause (xvi) of sub-section (2) of section 88, shall satisfy itself that the application made to it fulfils the following requirements, namely :—

- (1) An application for approval has been made in the Form No. 59 by the public company three months before the ⁸⁵[eligible issue of capital].

78. Inserted by the IT (Twenty-first Amdt.) Rules, 1998, w.e.f. 23-10-1998.

79. Inserted by the IT (Nineteenth Amdt.) Rules, 2003, w.r.e.f. 1-4-2003.

80. Inserted by the IT (Eighteenth Amdt.) Rules, 2003, w.e.f. 5-9-2003.

81. For text of section 2(1)(b) of the Patents Act, 1970, see **Appendix**.

82. Inserted by the IT (Twenty-sixth Amdt.) Rules, 2003, w.e.f. 13-11-2003.

83. Inserted by the IT (Sixth Amdt.) Rules, 1996, w.e.f. 22-11-1996. Earlier existing rule 20 was omitted by the IT (Fifth Amdt.) Rules, 1989, w.e.f. 18-5-1989.

84. Inserted by the IT (Twenty-fourth Amdt.) Rules, 2005, w.e.f. 3-11-2005.

85. Substituted for "public issue" by the IT (Second Amdt.) Rules, 1997, w.r.e.f. 22-11-1996.

*Heading is provided by Editors.

⁸⁶[*Explanation.*—For the purposes of this rule, “the eligible issue of capital” means an issue referred to in clause (i) of the *Explanation* to clause (xix) in sub-section (2) of section 80C or in clause (i) of the *Explanation* to clause (xvi) in sub-section (2) of section 88.]

- (2) Every application shall be accompanied by the following documents, namely :—
- (a) a copy of the certificate of incorporation under the Companies Act, 1956 (1 of 1956);
 - (b) audited balance sheets and profit and loss account for three previous years immediately preceding the previous year in which the application is made :

Provided that where a company has been in existence for a period of less than three years, in that case that company may furnish balance sheet and profit and loss account for the period of its existence.
- (3) Every such public company shall invest its total paid-up capital (hereinafter referred to as such capital) raised through equity issue or debentures in the following manner :—
- (i) twenty-five per cent or more of such capital shall be invested in the infrastructure facility before the end of one year from the date of approval of the Board;
 - (ii) the balance of such capital shall be invested within a period of three years from the date of approval.
- (4) Every such public company shall submit a certificate from an accountant, as defined in the *Explanation* in sub-section (2) of section 288, specifying the amount invested in each year, from the date of approval of the Board.
- (5) The Board shall pass an order in writing granting approval or refusing approval to such public company, as the case may be :

Provided that no order refusing approval shall be passed by the Board before allowing an opportunity of being heard to the public company.
- (6) The Board shall have the power to withdraw the approval granted under sub-rule (5) in the following circumstances, namely :—
- (a) if such public company fails to make investments as per conditions mentioned in sub-rule (3); or
 - (b) if such public company fails to file the certificate referred to in sub-rule (4).]

86. Substituted by the IT (Twenty-fourth Amdt.) Rules, 2005, w.e.f. 3-11-2005. Prior to its substitution, *Explanation*, as inserted by the IT (Second Amdt.) Rules, 1997, w.r.e.f. 22-11-1996, read as under :

'*Explanation.*—For the purpose of this rule, “the eligible issue of capital” means an issue referred to in clause (i) of *Explanation* of clause (xvi) in sub-section (2) of section 88.'

⁸⁷[Guidelines for approval ⁸⁸[under clause (xx) of sub-section (2) of section 80C or] under clause (xvii) of sub-section (2) of section 88.

20A. (1) For the purpose of ⁸⁸[clause (xx) of sub-section (2) of section 80C or] clause (xvii) of sub-section (2) of section 88, the prescribed authority shall be the Central Board of Direct Taxes.

(2) An application for approval shall be made in Form No. 59A by the Mutual Fund to the Board referred in sub-rule (1) three months before the public issue.

(3) Every application for approval under sub-rule (2) shall be accompanied by the following documents, namely :—

- (a) audited balance sheets and profit and loss account for three previous years immediately preceding the previous year in which the application is made :

Provided that where a Mutual Fund has been in existence for a period of less than three years, in that case that company may furnish balance sheet and profit and loss account for the period of its existence;

- (b) a copy of the certificate of registration issued by the Securities and Exchange Board of India.

(4) Every such Mutual Fund shall invest its total paid-up capital (hereinafter referred to as such capital) raised through equity issue or debentures in the following manner :—

- (i) twenty-five per cent or more of such capital shall be invested in the “eligible issue of capital of any company” referred to in ⁸⁸[clause (i) of *Explanation* to clause (xix) of sub-section (2) of section 80C or in] clause (i) of *Explanation* to clause (xvi) of sub-section (2) of section 88, before the end of one year from the date of approval of the Board;
- (ii) the balance of such capital shall be invested within a period of three years from the date of approval.

(5) Every such Mutual Fund shall submit a certificate from an accountant, as defined in the *Explanation* to sub-section (2) of section 288, specifying the amount invested in each year, from the date of approval of the Board.

(6) The Board shall pass an order in writing granting approval or refusing approval to such Mutual Fund, as the case may be :

Provided that no order of refusing approval shall be passed by the Board without an opportunity of being heard given to the Mutual Fund.

(7) The Board shall have the power to withdraw the approval granted under sub-rule (6) under the following circumstances, namely :—

- (a) if such Mutual Fund fails to make investments as mentioned in sub-rule (4); or

87. Inserted by the IT (Eleventh Amdt.) Rules, 1996, w.e.f. 26-12-1996.

88. Inserted by the IT (Twenty-fourth Amdt.) Rules, 2005, w.e.f. 3-11-2005.

- (b) if such Mutual Fund fails to file the certificate referred to in sub-rule (5).]

⁸⁹[**Evidence of payment of security transaction tax for claiming deduction under section 88E.**

20AB. The evidence of payment of securities transaction tax which is required to be furnished along with the return of income by the assessee under first proviso to section 88E,—

- (i) on the value of transaction entered into by him in a recognised stock exchange, shall be in Form No. 10DB and shall be verified in the manner indicated therein;
- (ii) on the value of transaction of sale, by him, of a unit of an equity oriented fund to the Mutual Fund, shall be in Form No. 10DC and shall be verified in the manner indicated therein.]

Limits for life insurance premia in the case of authors, etc.

21. [Omitted by the IT (Fifth Amdt.) Rules, 1989, w.e.f. 18-5-1989.]

⁹⁰[**Relief when salary is paid in arrears or in advance, etc.**

21A. ⁹¹[(1) Where, by reason of any portion of an assessee's salary being paid in arrears or in advance or, by reason of any portion of family pension received by an assessee being paid in arrears or, by reason of his having received in any one financial year salary for more than twelve months or a payment which under the provisions of clause (3) of section 17 is a profit in lieu of salary, his income is assessed at a rate higher than that at which it would otherwise have been assessed, the relief to be granted under sub-section (1) of section 89 shall be—

- (a) where any portion of the assessee's salary is received in arrears or in advance or, any portion of family pension is received by an assessee in arrears, in accordance with the provisions of sub-rule (2);

89. Inserted by the IT (First Amdt.) Rules, 2005, w.e.f. 6-1-2005. No rebate is admissible under section 88E from the assessment year 2009-10 onwards.

90. Inserted by the IT (Amdt.) Rules, 1972, w.r.e.f. 1-4-1971.

Relief under section 89(1) is to be given in the assessment in which the extra payment by way of arrears, advance, etc., is taxed - Circular No. 331, dated 22-3-1982. Relief would also be admissible on encashment of leave salary while in service - Circular No. 431, dated 12-9-1985. For formula for computation of relief on gratuity, see Circular No. 9-D(LIII-6), dated 17-3-1966 as modified by Circular No. 14-D(LIII-7), dated 19-4-1966. Where the Supreme Court awarded lump sum compensation in lieu of back wages and future wages in an industrial dispute with a direction that the lump sum should be spread over the back period, relief under section 89(1) is admissible and it must be quantified before making payment - *Sundaram Motors (P.) Ltd. v. Ameerjan* [1985] 152 ITR 64 (SC). Relief is admissible on arrears of salary paid under orders of court - *Sant Rajv. O.P. Singla* [1987] 163 ITR 588 (SC), *K.C. Joshi v. Union of India* [1987] 163 ITR 597 (SC). Where back wages are paid to assessee pursuant to striking down of termination order by court, relief is admissible - *Satyapal v. Wool & Woollen Export Promotion Council* [1988] 169 ITR 507 (Bom.). Compensation received consequent to resignation is also entitled to relief - *CIT v. J. Visalakshi* [1994] 206 ITR 531 (Mad.). For details, see Taxmann's Master Guide to Income-tax Rules.

91. Sub-rules (1) and (2) substituted by the IT (Twenty-first Amdt.) Rules, 2002, w.r.e.f. 1-4-2002.

- (b) where the payment is in the nature of gratuity in respect of past services of the assessee extending over a period of not less than five years, in accordance with the provisions of sub-rule (3);
- (c) where the payment is in the nature of compensation received by the assessee from his employer or former employer at or in connection with the termination of his employment after continuous service for not less than three years and where the unexpired portion of his term of employment is also not less than three years, in accordance with the provisions of sub-rule (4);
- (d) where the payment is in commutation of pension, in accordance with the provisions of sub-rule (5); and
- (e) where the payment is not in the nature of salary paid in arrears or in advance or gratuity in respect of past services or compensation received at or in connection with the termination of employment or in commutation of pension, in accordance with the provisions of sub-rule (6).

(2)(a) In a case referred to in clause (a) of sub-rule (1), the tax payable by the assessee on his total income of the previous year in which the salary is received in arrears or in advance or, in which the family pension is received in arrears (such salary or family pension being hereafter in this sub-rule referred to respectively as the additional salary or additional family pension, as the case may be, and such previous year being hereafter in this sub-rule referred to as the relevant previous year) shall be reduced by the amount, if any, by which the tax on the additional salary or additional family pension, calculated in the manner specified in clause (b), exceeds the tax or the aggregate tax on the additional salary or additional family pension, calculated in the manner specified in clause (c) or clause (d), as the case may be.

(b) Tax shall be calculated on the total income of the relevant previous year as reduced by the additional salary or additional family pension, as the case may be, as if the total income so reduced were the total income of the assessee, and the amount by which the tax so calculated falls short of the tax on the total income before such reduction shall, for the purposes of clause (a), be taken to be the tax on the additional salary or additional family pension, under this clause.

(c) Where the additional salary or additional family pension, as the case may be, relates to only one previous year, tax shall be calculated on the total income of the said previous year as increased by the additional salary or additional family pension, as if the total income so increased were the total income of the assessee, and the amount by which the tax so calculated exceeds the tax payable by the assessee in respect of the total income of the said previous year shall, for the purposes of clause (a), be taken to be the tax on the additional salary or additional family pension, under this clause.

(d) Where the additional salary or additional family pension, as the case may be, relates to more than one previous year,—

- (i) the previous years to which the additional salary or additional family pension relates and the amount relating to each such previous year shall first be ascertained;

- (ii) tax shall, then, be calculated on the total income of each such previous year as increased by the amount relating to such previous year ascertained under sub-clause (i); as if the total income so increased were the total income of that previous year, and the amount by which the aggregate amount of tax in respect of the aforesaid previous years as calculated under sub-clause (i) exceeds the aggregate amount of tax payable by the assessee in respect of the total income of the said previous years shall, for the purposes of clause (a), be taken to be the aggregate tax on the additional salary or additional family pension, under this clause.]

(3)(a) In a case referred to in clause (b) of sub-rule (1), the tax payable by the assessee on his total income of the previous year in which the payment by way of gratuity is received (such previous year being hereafter in this sub-rule referred to as the relevant previous year) shall be reduced by the amount, if any, by which the tax on the amount of the gratuity included in the total income of the relevant previous year, calculated at the average rate of tax applicable to such total income, exceeds the tax on the amount of such gratuity, calculated at the rate of tax determined under clause (b) or, as the case may be, clause (c).

(b) Where the payment by way of gratuity is made in respect of past services of the assessee extending over a period of not less than five years but less than fifteen years,—

- (i) the total income of the assessee in respect of each of the two previous years immediately preceding the relevant previous year shall be increased by an amount equal to one-half of the amount of the gratuity included in the total income of the relevant previous year, and the average rate of tax for each of the said two previous years shall be calculated as if the total income so increased were the total income of that previous year; and
- (ii) the average of the average rates of tax for the two previous years immediately preceding the relevant previous year, calculated in accordance with sub-clause (i), shall, for the purposes of clause (a), be the rate of tax determined under this clause.

(c) Where the payment by way of gratuity is made in respect of past services of the assessee extending over a period of not less than fifteen years,—

- (i) the total income of the assessee in respect of each of the three previous years immediately preceding the relevant previous year shall be increased by an amount equal to one-third of the amount of the gratuity included in the total income of the relevant previous year, and the average rate of tax for each of the said three previous years shall be calculated as if the total income so increased were the total income of that previous year; and
- (ii) the average of the average rates of tax for the three previous years immediately preceding the relevant previous year, calculated in accordance with sub-clause (i), shall, for the purposes of clause (a), be the rate of tax determined under this clause.

(4)(a) In a case referred to in clause (c) of sub-rule (1), the tax payable by the assessee on his total income of the previous year in which the payment by way of compensation is received (such previous year being hereafter in this sub-rule referred to as the relevant previous year) shall be reduced by the amount, if any, by which the tax on the amount of the compensation included in the total income of the relevant previous year, calculated at the average rate of tax applicable to such total income, exceeds the tax on the amount of such compensation, calculated at the rate of tax determined under clause (b).

(b) The total income of the assessee in respect of each of the three previous years immediately preceding the relevant previous year shall be increased by an amount equal to one-third of the amount of the compensation included in the total income of the relevant previous year, and the average rate of tax for each of the said three previous years shall be calculated as if the total income so increased were the total income of that previous year; and the average of the average rates of tax so calculated for the three previous years shall, for the purposes of clause (a), be the rate of tax determined under this clause.

(5)(a) In a case referred to in clause (d) of sub-rule (1), the tax payable by the assessee on his total income of the previous year in which the payment in commutation of pension is received (such previous year being hereafter in this sub-rule referred to as the relevant previous year) shall be reduced by the amount, if any, by which the tax on the payment in commutation of pension included in the total income of the relevant previous year, calculated at the average rate of tax applicable to such total income, exceeds the tax on the amount of such payment, calculated at the rate of tax determined under clause (b).

(b) The total income of the assessee in respect of each of the three previous years immediately preceding the relevant previous year shall be increased by an amount equal to one-third of the amount of payment in commutation of pension included in the total income of the relevant previous year, and the average rate of tax for each of the said three previous years shall be calculated as if the total income so increased were the total income of that previous year; and the average of the average rates of tax so calculated for the three previous years shall, for the purposes of clause (a), be the rate of tax determined under this clause.

(6) In a case referred to in clause (e) of sub-rule (1), the Board may, having regard to the circumstances of the case, allow such relief as it deems fit.]

⁹²**[Furnishing of particulars for claiming relief under section 89(1).**

21AA. Where the assessee, being a Government servant or an employee in a ⁹³[company, co-operative society, local authority, university, institution, association or body], is entitled to relief under sub-section (1) of section 89, he may furnish to the person responsible for making the payment referred to in sub-section (1) of section 192, the particulars specified in Form No. 10E.]

92. Inserted by the IT (Eighth Amtd.) Rules, 1987. See section 192(2A).

93. Substituted for "public sector undertaking" by the IT (Ninth Amtd.) Rules, 1991, w.e.f. 16-5-1991.

Relief when interest on securities is received in arrears.

⁹⁴21B. [Omitted by the IT (Thirty-second Amdt.) Rules, 1999, w.e.f. 19-11-1999.]

PART V**REGISTRATION OF FIRMS⁹⁵****Application for registration of a firm.**

22. (1) An application for registration of a firm for the purposes of the Act shall be made in accordance with the provisions of sub-rules (2) to (5).
- (2) Where the application is made before the end of the relevant previous year—
- (i) and where no change in the constitution of the firm or the shares of the partners has taken place during the previous year before the date of the application—
 - (a) the application shall be made in Form No. 11; and

94. Prior to its omission, rule 21B, as inserted by the IT (Amdt.) Rules, 1972, w.r.e.f. 1-4-1971, read as under :

“21B. *Relief when interest on securities is received in arrears.*—(a) Where by reason of any portion of an assessee’s income from interest on securities being received in arrears his total income is assessed at a rate higher than that at which it would otherwise have been assessed, the tax payable by the assessee on his total income of the previous year in which the income from interest on securities is received in arrears (such income and such previous year being hereafter in this rule referred to respectively as the additional interest and the relevant previous year) shall be reduced by the amount, if any, by which the tax on the additional interest, calculated in the manner specified in clause (b), exceeds the tax or the aggregate tax on the additional interest, calculated in the manner specified in clause (c) or clause (d), as the case may be.

(b) Tax shall be calculated on the total income of the relevant previous year as reduced by the additional interest, as if the total income so reduced were the total income of the assessee, and the amount by which the tax so calculated falls short of the tax on the total income before such reduction shall, for the purposes of clause (a), be taken to be the tax on the additional interest under this clause.

(c) Where the additional interest relates to only one previous year, tax shall be calculated on the total income of the said previous year as increased by the additional interest, as if the total income so increased were the total income of the assessee, and the amount by which the tax so calculated exceeds the tax payable by the assessee in respect of the total income of the said previous year shall, for the purposes of clause (a), be taken to be the tax on the additional interest under this clause.

(d) Where the additional interest relates to more than one previous year,—

(i) the previous years to which the additional interest relates and the amount relating to each such previous year shall first be ascertained;

(ii) tax shall, then, be calculated on the total income of each such previous year as increased by the amount relating to such previous year ascertained under sub-clause (i), as if the total income so increased were the total income of that previous year, and

the amount by which the aggregate amount of tax in respect of the aforesaid previous years as calculated under sub-clause (ii) exceeds the aggregate amount of tax payable by the assessee in respect of the total income of the said previous years shall, for the purposes of clause (a), be taken to be the aggregate tax on the additional interest under this clause.”

95. See section 184 as it stood prior to its substitution by the Finance Act, 1992, w.e.f. 1-4-1993. Under the amended provisions, the scheme of registration of firms has been dispensed with, with effect from 1-4-1993.

- (b) it shall be accompanied by the original instrument evidencing the partnership at the date of the application together with a copy thereof. A certified copy of the instrument together with a duplicate copy thereof may be attached to the application if, for sufficient reason, the original instrument cannot be produced;
- ⁹⁶(i) and where any change or changes in the constitution of the firm or the shares of the partners have taken place during the previous year before the date of the application—
- (a) the application shall be made in Form No. 11A; and
- (b) it shall be accompanied by the original instrument or instruments, evidencing the partnership as in existence from time to time during the previous year up to the date of the application together with copies thereof. A certified copy of the instrument or instruments together with a duplicate copy thereof may be attached to the application if, for sufficient reason, the original instrument or instruments cannot be produced.
- (3) Where after the date of making an application under sub-rule (2), any change or changes in the constitution of the firm or the shares of the partners have taken place during the previous year, a fresh application shall be made after each such change takes place in accordance with the provisions of sub-clauses (a) and (b) of clause (i) of sub-rule (2) and the time-limit prescribed in sub-section (4) of section 184 shall apply to each such application.
- (4) Where the application is made after the end of the relevant previous year—
- (i) and where no change in the constitution of the firm or the shares of the partners has taken place during the said previous year and up to the date of the application, the application shall be made in accordance with the provisions of sub-clauses (a) and (b) of clause (i) of sub-rule (2);
- (ii) and where any change or changes in the constitution of the firm or the shares of the partners have taken place during the said previous year and/or after the end of the previous year but before the date of the application—
- (a) the application shall be made in Form No. 11A; and
- (b) it shall be accompanied by the original instrument or instruments evidencing the partnership as in existence from time to time during the previous year and up to the date of the application together with copies thereof. A certified copy of the instrument or instruments together with a duplicate copy thereof may be attached to the application if, for sufficient reason, the original instrument or instruments cannot be produced.

96. See *CIT v. K. Damodaran Nair* [1981] 130 ITR 682 (Ker.) and *D.S. Mahadevasa & Co. v. CIT* [1984] 145 ITR 187 (Kar.) on this clause.

⁹⁷(5) The application shall be signed personally by all the partners (not being minors) in the firm as constituted at the date of the application and, in the case of a dissolved firm, personally by all the persons (not being minors) who were partners in the firm immediately before its dissolution and by the legal representative of any such partner who is deceased so, however, that in the case of any partner who is absent from India or is a lunatic or an idiot, the application may be signed by any person duly authorised by him in this behalf, or, as the case may be, by a person entitled under law to represent him.

Intimation regarding subsequent changes in constitution, etc.

23. If after the date of the application, or of the last application where more than one application are made, for registration of a firm for any assessment year and before the assessment for that assessment year is completed by the ⁹⁸[Assessing Officer], so far as known to the firm, any change or changes take place in the constitution of the firm or the shares of the partners, the details of such change or changes shall be communicated by the firm to the ⁹⁸[Assessing Officer] as soon as possible after each such change takes place.

⁹⁹Declaration for continuation of registration.

24. ¹The declaration to be furnished under sub-section (7) of section 184 shall be in Form No. 12 and shall be verified in the manner indicated therein and shall be signed by the persons concerned in accordance with sub-rule (5) of rule 22.

²[Communication regarding partner who is a benamidar.

24A. (1) The communication required to be made by any partner of a firm under clause (b) of the *Explanation* below sub-section (1) of section 185 shall be in Form No. 12A.

(2) The communication referred to in sub-rule (1) shall be made,—

- (a) in a case where the firm has not been registered under section 184, before the end of the previous year for the assessment year in respect of which registration of the firm is sought :

Provided that where the registration is sought for the assessment year commencing on the 1st day of April, 1976, the communication may be made before the expiry of the time allowed under sub-section (1) or sub-section (2) of section 139 (whether fixed originally or on extension) for furnishing the return of income for that assessment year;

- (b) in a case where the registration of the firm has effect under sub-section (7) of section 184 for any assessment year, before the expiry of the time allowed under sub-section (1) or sub-section (2) of section 139 (whether

97. See *Srinivasa Stainless Steel & Moulding Works v. CIT* [1987] 32 Taxman 102 (AP) on requirement of signing application.

98. Substituted for "Income-tax Officer" by the IT (Fifth Amdt.) Rules, 1989, w.e.f. 1-4-1988.

99. See *Addl. CIT v. S.V. Ratnaswamy & Sons* [1977] 106 ITR 154 (Kar.) and *Nemichand Rajmal & Co. v. CIT* [1982] 138 ITR 703 (Bom.) on continuation of registration—*Wazid Ali Abid Ali v. CIT* [1988] 169 ITR 761 (SC) on question of signing fresh application for registration where there is a change in its constitution.

1. See also *CIT v. B.L. Agarwalla* [1991] 56 Taxman 21 (Pat.), *CIT v. Toolsidass Jewraj* [1991] 192 ITR 568 (Cal.), *CIT v. India Sea Foods* [1991] 192 ITR 515 (Ker.) and *Paul Mathews & Co. v. CIT* [1991] 98 CTR (Ker.) 12.

2. Inserted by the IT (Third Amdt.) Rules, 1976, w.e.f. 1-4-1976.

fixed originally or on extension) for furnishing the return of income for that assessment year.]

Certificate of registration.

25. The certificate under sub-section (4) of section 185 shall be recorded on the last of the instruments evidencing the partnership during the relevant previous year (or on the certified copy submitted in lieu thereof) attached with the application for registration of the firm made in accordance with sub-rules (2) to (4) of rule 22.

PART VI

DEDUCTION OF TAX AT SOURCE³

⁴[⁵Rate of exchange for the purpose of deduction of tax at source on income payable in foreign currency.

26. For the purpose of deduction of tax at source on any income payable in foreign currency, the rate of exchange for the calculation of the value in rupees of such income payable to an assessee outside India shall be the telegraphic transfer buying rate of such currency as on the date on which the tax is required to be deducted at source under the provisions of Chapter XVIIIB by the person responsible for paying such income.

Explanation : For the purposes of this rule, “telegraphic transfer buying rate”, in relation to a foreign currency, means “[the rate or rates of exchange] adopted by the State Bank of India constituted under the State Bank of India Act, 1955 (23 of 1955), for buying such currency”⁷[, having regard to the guidelines specified from time to time by the Reserve Bank of India for buying such currency,] where such currency is made available to that bank through a telegraphic transfer.]

⁸[Furnishing of particulars of income under the head “Salaries”⁹.

26A. (1) The assessee may furnish to the person responsible for making the payment referred to in sub-section (1) of section 192, the details of the income under the head “Salaries” due or received by him from the other employer or employers referred to in sub-section (2) of that section and of any tax deducted at source from such income in Form No. 12B.

3. For relevant Case Laws & Departmental Clarifications, see Taxmann’s Master Guide to Income-tax Rules.

4. Substituted by the IT (Eighth Amtd.) Rules, 1977, w.e.f. 1-11-1977. Original rule 26 was first substituted by the IT (Third Amtd.) Rules, 1967 and later amended by the IT (Second Amtd.) Rules, 1968.

5. See section 192(6).

6. Substituted for “the rate of exchange” by the IT (First Amtd.) Rules, 1993, w.e.f. 5-1-1993.

7. Inserted, *ibid*.

8. Substituted by the IT (Twenty-second Amtd.) Rules, 2001, w.r.e.f. 1-4-2001. Prior to its substitution, rule 26A, as inserted by the IT (Eighth Amtd.) Rules, 1987, w.e.f. 29-10-1987, read as under :

‘26A. *Furnishing of particulars of income under the head “Salaries” received from other employer(s) for deduction of tax at source.*—The assessee may furnish to the person responsible for making the payment referred to in sub-section (1) of section 192, the details of the income under the head “Salaries” due or received by him from the other employer or employers referred to in sub-section (2) of that section and of any tax deducted at source from such income in Form No. 12B.’

9. See section 192(2)/(2C).

(2) The person responsible for paying any income chargeable under the head “Salaries” shall furnish to the person to whom such payment is made, a statement giving correct and complete particulars of perquisites or profits in lieu of salary and the value thereof in,—

(a) relevant columns provided in Form No. 16, if the amount of salary paid or payable to the employee is not more than one lakh and fifty thousand rupees; or

¹⁰[(b) Form No. 12BA, if the amount of salary paid or payable to the employee is more than one lakh and fifty thousand rupees, which shall accompany the return of income of the employee.]

Explanation: “Salary” for the purposes of this rule shall have the same meaning as given in rule 3.]

¹¹[**Statement of particulars of income under heads of income other than “Salaries” for deduction of tax at source.**¹²

26B. (1) The assessee may send to the person responsible for making payment under sub-section (1) of section 192, a statement of any income chargeable under any head of income other than “Salaries” (not being a loss under any such head other than the loss under the head “Income from house property”), received by the assessee for the same financial year, and of any tax deducted on such income.

(2) A verification in the following form shall be annexed to the statement referred to in sub-rule (1),—

FORM OF VERIFICATION

I,(name of the assessee), do declare that what is stated above is true to the best of my information and belief.]

Prescribed arrangements for declaration and payment of dividends within India.

27. The arrangements referred to in ¹³[sections 194 and 236] to be made by a company for the declaration and payment of dividends (including dividends on preference shares) within India shall be as follows :

10. Substituted by the IT (Twenty-fifth Amdt.) Rules, 2002, w.r.e.f. 1-6-2002. Prior to its substitution, clause (b) read as under :

“(b) in Form No. 12BA, if the amount of salary paid or payable to the employee is more than one lakh and fifty thousand rupees.”

11. Substituted by the IT (Twenty-fourth Amdt.) Rules, 2003, w.e.f. 1-10-2003. Earlier, it was inserted by the IT (Eighth Amdt.) Rules, 1987, w.e.f. 29-10-1987 and amended by the IT (Fourteenth Amdt.) Rules, 1998, w.e.f. 14-9-1998. Prior to its substitution, rule 26B read as under :

‘26B. *Furnishing of particulars of income under heads of income other than “Salaries” for deduction of tax at source.*—The assessee may send to the person responsible for making the payment referred to in sub-section (1) of section 192, the particulars of any income chargeable under any head of income other than “Salaries” (not being a loss under any such head other than the loss under the head “Income from house property”), received by the assessee for the same financial year, and of any tax deducted on such income in Form No. 12C.’

12. See section 192(2B).

13. Substituted for “sections 80B, 194, 195, 236 and 286” by the IT (Third Amdt.) Rules, 1996, w.e.f. 2-7-1996. Earlier “80B” was inserted by the IT (Second Amdt.) Rules, 1968.

- (1) The share-register of the company for all shareholders shall be regularly maintained at its principal place of business within India, in respect of any assessment year from a date not later than the 1st day of April of such year.
- (2) The general meeting for passing the accounts of the previous year relevant to the assessment year and for declaring any dividends in respect thereof shall be held only at a place within India.
- (3) The dividends declared, if any, shall be payable only within India to all shareholders.

¹⁴**[Application for certificates for deduction of tax at lower rates.**

28. (1) An application by a person ¹⁵[* * *] for a certificate under sub-section (1) of section 197 shall be made in Form No. 13¹⁶.

(2) ¹⁷[* * *]

(3) ¹⁸[* * *]

(4) & (5) ¹⁹[* * *]

Statement by shareholder claiming receipt of dividend without deduction of tax.

28A. ²⁰[Omitted by the IT (Third Amdt.) Rules, 1996, w.e.f. 2-7-1996.]

14. Substituted by the IT (Third Amdt.) Rules, 1988, w.e.f. 9-6-1988. Earlier, rule 28 was amended by the IT (Fifth Amdt.) Rules, 1967, IT (Third Amdt.) Rules, 1972, IT (Third Amdt.) Rules, 1973, w.e.f. 15-7-1973, IT (Sixth Amdt.) Rules, 1977, w.e.f. 1-10-1977 and IT (Fifth Amdt.) Rules, 1978, w.e.f. 1-6-1978.
15. Words “, other than a company,” omitted by the IT (Twentieth Amdt.) Rules, 1992, w.e.f. 23-12-1992.
16. With effect from 1-4-2010, the Assessing Officer will not issue a certificate unless the application contains PAN of the applicant (*see* section 206AA).
17. Omitted by the IT (Twenty-fourth Amdt.) Rules, 2003, w.e.f. 1-10-2003. Prior to its omission, sub-rule (2) read as under :
“(2) An application by a contractor or a sub-contractor for a certificate under sub-section (4) of section 194C in respect of income comprised in payments to contractors and sub-contractors shall be made in Form No. 13C.”
18. Omitted by the IT (Tenth Amdt.) Rules, 1993, w.e.f. 16-6-1993. Prior to its omission, sub-rule (3), as amended by the IT (Third Amdt.) Rules, 1988, w.e.f. 9-6-1988, stood as under :
“(3) An application by a person, other than a company, for a certificate under the second proviso to section 194 shall be made in Form No. 14.”
19. Omitted by the IT (Twenty-fourth Amdt.) Rules, 2003, w.e.f. 1-10-2003. Prior to its omission, sub-rule (4) as inserted by the IT (Twentieth Amdt.) Rules, 1992, w.e.f. 23-12-1992 and sub-rule (5) as inserted by the IT (Seventeenth Amdt.) Rules, 1995, w.r.e.f. 1-7-1995, read as under :
“(4) An application by a person for a certificate under sub-section (2) of section 194G shall be made in Form No. 13D.
(5) An application by a person for a certificate under sub-section (2) of section 194J shall be made in Form No. 13E.”
20. Prior to its omission, rule 28A, as inserted by the IT (Sixth Amdt.) Rules, 1977, w.e.f. 1-10-1977, read as under :
“28A. *Statement by shareholder claiming receipt of dividend without deduction of tax.*—(1) The statement in writing to be furnished under the first proviso to section 194 shall be in Form No. 14B and shall be verified in the manner indicated therein.
(2) The statement referred to in sub-rule (1) shall be furnished in duplicate to the person responsible for paying the dividend.”

²¹⁻²⁵[**Certificate for deduction at lower rates or no deduction of tax from income other than dividends.**

28AA. (1) *Where the Assessing Officer, on an application made by a person under sub-rule (1) of rule 28 is satisfied that existing and estimated tax liability of a person justifies the deduction of tax at lower rate or no deduction of tax, as the case may be, the Assessing Officer shall issue a certificate in accordance with the provisions of sub-section (1) of section 197 for deduction of tax at such lower rate or no deduction of tax.*

(2) *The existing and estimated liability referred to in sub-rule (1) shall be determined by the Assessing Officer after taking into consideration the following:—*

- (i) *tax payable on estimated income of the previous year relevant to the assessment year;*
- (ii) *tax payable on the assessed or returned income, as the case may be, of the last three previous years;*
- (iii) *existing liability under the Income-tax Act, 1961 and Wealth-tax Act, 1957;*
- (iv) *advance tax payment for the assessment year relevant to the previous year till the date of making application under sub-rule (1) of rule 28;*
- (v) *tax deducted at source for the assessment year relevant to the previous year till the date of making application under sub-rule (1) of rule 28; and*
- (vi) *tax collected at source for the assessment year relevant to the previous year till the date of making application under sub-rule (1) of rule 28.*

(3) *The certificate shall be valid for such period of the previous year as may be specified in the certificate, unless it is cancelled by the Assessing Officer at any time before the expiry of the specified period.*

21-25. Substituted by the IT (Second Amdt.) Rules, 2011, w.e.f. **1-4-2011**. Prior to its substitution rule 28AA as amended by the IT (Twenty-fourth Amdt.) Rules, 2003, w.e.f. 1-10-2003, IT (Tenth Amdt.) Rules, 1993, w.e.f. 16-6-1993, IT (Twentieth Amdt.) Rules, 1992, w.e.f. 23-12-1992 and IT (Third Amdt.) Rules, 1988, w.e.f. 9-6-1988, read as under :

"28AA. Certificate of no deduction of tax or deduction at lower rates from income other than dividends.—(1) The Assessing Officer, on an application made by a person under sub-rule (1) of rule 28, may issue a certificate in accordance with the provisions of sub-section (1) of section 197 for deduction of tax at source at the rate or rates calculated in the manner specified below :

- (i) *at such average rate of tax as determined by the total tax payable on estimated income, as reduced by the sum of advance tax already paid and tax already deducted at source, as a percentage of the payment referred to in section 197 for which the application under sub-rule (1) of rule 28 has been made; or*
- (ii) *at the average of the average rates of tax paid by the assessee in the last three years; whichever is higher.*

(2) *The certificate shall be valid for the assessment year to be specified in the certificate, unless it is cancelled by him at any time before the expiry of the specified period. An application for a fresh certificate may be made, if required, after the expiry of the period of validity of the earlier certificate.*

(3) *The certificate shall be valid only for the person named therein.*

(4) *The certificate shall be issued direct to the person responsible for paying the income under advice to the applicant.*

(5) *[* * *]"*

(4) *The certificate shall be valid only with regard to the person responsible for deducting the tax and named therein.*

(5) *The certificate shall be issued direct to the person responsible for deducting the tax under advice to the person who made an application for issue of such certificate.]*

²⁶[**Certificate of no deduction of tax in case of certain entities.**

28AB. (1) Subject to the conditions specified in sub-rule (2), a person—

- (a) in receipt of income or deemed income derived from property held under trust wholly for charitable or religious purposes and who claims exemption under section 11 or section 12; or
- (b) required to file a return in respect of a scientific research association, news agency, association or institution, fund or trust or university or other educational institution or any hospital or other medical institution or trade union referred to in sub-section (4C) of section 139,

may make an application to the Assessing Officer for the grant of a certificate under sub-section (1) of section 197 authorizing him to receive incomes without deduction of tax at source.

(2) The conditions referred to in sub-rule ²⁷[(1)] are the following, namely :—

- (i) the person concerned has furnished the returns of income for all assessment years for which such returns became due on or before the date on which the application under sub-rule (1) is made;
- (ii) the trust, scientific research association, news agency, association or institution, fund or trust or university or other educational institution or any hospital or other medical institution or trade union referred to in sub-rule (1) is for the time being approved for the purpose of exemption from income-tax; and
- (iii) the applicant gives a list of deductors from whom amounts are to be received without deduction of tax at source every six months along with the names, addresses and the amounts received.

(3) An application for the certificate is to be made to the Assessing Officer in accordance with sub-rule (1) of rule 28.

(4) The Assessing Officer may issue a certificate ²⁸authorizing payment of incomes without deduction of tax at source if he is satisfied that all the conditions laid down in sub-rule (2) are fulfilled and the issue of any such certificate will not be prejudicial to the interests of revenue.

(5) The applicant may furnish copies of certificate issued under sub-rule (4) to the person responsible for paying the income for the purpose of no deduction of tax at source.

(6) The certificate shall be valid for the financial year specified therein unless it is cancelled by the Assessing Officer at any time before the expiry of the said financial year.

26. Inserted by the IT (Third Amdt.) Rules, 2004, w.e.f. 1-4-2004.

27. Substituted for "(2)" by the IT (Tenth Amdt.) Rules, 2004, w.r.e.f. 1-4-2004.

28. With effect from 1-4-2010, the Assessing Officer will not issue the certificate unless the application contains the PAN of the applicant. (See section 206AA)

(7) An application for a fresh certificate may be made, if the assessee so desires, after the expiry of the period of validity of the earlier certificate.]

Certificate of no deduction of tax or deduction at lower rates from dividends.

29. (1) ²⁹[The Assessing Officer, on being satisfied that the total income of the shareholder justifies the deduction of income-tax at any lower rates or no deduction of income-tax, as the case may be, shall, on an application^{29a} made under sub-rule (1) of rule 28 by the assessee, give him a certificate authorising the payment of a dividend to him, under sub-section (1) of section 197, without deduction of tax or, as the case may be, after deduction of tax at rates lower than the rates in force only if the following conditions are satisfied, namely :]

- (a) The shares in respect of which the certificate is sought for by him—
- (i) are shares in public companies; and
 - (ii) stand in his name and are beneficially owned by him, and the dividends therefrom are not includible in the total income of any other person under sections 60 to 64,

or

stand in his name and are held by him under trust wholly for charitable or religious purposes, and the dividends therefrom ³⁰[are exempt from tax under the provisions of sections 11 to 13].

- (b) An application for the certificate is made to the ³¹[Assessing Officer] in accordance with sub-rule ³²[(1)] ³³[* * *] of rule 28.

³⁴(2) The certificate shall be valid for such period (not exceeding three years from the date of certificate), as the ³⁵[Assessing Officer] may specify therein, unless it is cancelled by him at any time before the expiry of the specified period. An application for a fresh certificate may be made, if required, after the expiry of the period of validity of the earlier certificate.

29. Substituted for the words beginning with "The Assessing Officer" and ending with the word "namely : " by the IT (Tenth Amdt.) Rules, 1993, w.e.f. 16-6-1993. Prior to their substitution, the said words as substituted by the IT (Twentieth Amdt.) Rules, 1992, w.e.f. 23-12-1992, read as under :

"The Assessing Officer may give a certificate authorising the payment of a dividend,—

(i) to a shareholder, other than a company, under the second proviso to section 194,

(ii) to a shareholder, being a non-resident, under sub-section (1) of section 197,

without deduction of tax or, as the case may be, after deduction of tax at rates lower than the rates in force only if the following conditions are satisfied, namely :"

These words were earlier amended from time to time by the IT (Amdt.) Rules, 1967, IT (Sixth Amdt.) Rules, 1977, w.e.f. 1-10-1977 and IT (Third Amdt.) Rules, 1988, w.e.f. 9-6-1988.

29a. With effect from 1-4-2010, the Assessing Officer will not issue the certificate unless the application contains the PAN of the applicant. (See section 206AA)

30. Substituted for "qualify for deduction under the provisions of section 80F" by the IT (Twentieth Amdt.) Rules, 1992, w.e.f. 23-12-1992.

31. Substituted for "Income-tax Officer" by the IT (Third Amdt.) Rules, 1988, w.e.f. 9-6-1988.

32. Substituted for "(2)", *ibid*.

33. Words "or sub-rule (3), as the case may be," omitted by the IT (Tenth Amdt.) Rules, 1993, w.e.f. 16-6-1993.

34. Assessee can make an application for a fresh certificate for the succeeding period some time before expiry of the earlier certificate - See Letter F. No. 1(54)-63/TPL, dated 18-5-1963. For details, see Taxmann's Master Guide to Income-tax Rules.

35. Substituted for "Income-tax Officer" by the IT (Third Amdt.) Rules, 1988, w.e.f. 9-6-1988.

(3) The certificate shall be valid only for the person named therein, and shall cease to be operative from the date of notice to the company of the transfer of any of the shares mentioned therein to another person, in respect of the shares so transferred.

(4) The certificate shall be issued direct to the principal officer of the company under advice to the applicant shareholder.

(5) ³⁶[* * *].

³⁷[**Form of certificate to be furnished along with the return of income under sub-section (4) of section 80QQB, sections 80R, 80RR and 80RRA, and sub-section (3) of section 80RRB and the prescribed authority for the purposes of sub-section (4) of section 80QQB and sub-section (3) of section 80RRB.**

29A. (1) The certificate referred to in sub-section (4) of section 80QQB, sub-section (3) of section 80RRB, sections 80R, 80RR and 80RRA shall be in Form No. 10H.

(2) For the purpose of sub-section (4) of section 80QQB and sub-section (3) of section 80RRB, the prescribed authority shall be 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.]

***Form of certificate to be filed with the return of income for claiming deduction under section 80-O.**

³⁸[**29AA.** The certificate referred to in second proviso to section 80-O shall be in Form No. 10HA.]

³⁹[**Application for certificate authorising receipt of interest and other sums without deduction of tax.**

29B. (1) Any person entitled to receive any interest, or other sum, on which income-tax has to be deducted under sub-section (1) of section 195 may, if he fulfils the conditions specified in sub-rule (2), make an application for the grant of a certificate under sub-section (3) of section 195 authorising him to receive without deduction of tax under sub-section (1) of that section any such income as is specified hereinbelow, namely :—

- (i) where the person concerned is a banking company which is neither an Indian company nor a company which has made the prescribed arrangements for the declaration and payment of dividends within

36. Omitted by the IT (Twenty-fourth Amdt.) Rules, 2003, w.e.f. 1-10-2003. Prior to its omission, it read as under :

“(5) The certificate shall be issued in Form No. 15.”

37. Substituted by the IT (Nineteenth Amdt.) Rules, 2003, w.r.e.f. 1-4-2003. Earlier, it was inserted by the IT (Fifth Amdt.) Rules, 1997, w.e.f. 19-3-1997. Original rule 29A, as inserted by the IT (Fifth Amdt.) Rules, 1967 and omitted by the IT (Twelfth Amdt.) Rules, 1992, w.e.f. 1-6-1992. Prior to its substitution, rule 29A read as under :

“29A. *Form of certification to be filled with the return of income for claiming deduction under sections 80R, 80RR and 80RRA.*—The certificate referred to in sections 80R, 80RR and 80RRA shall be in Form No. 10H.”

Note : No deduction under sections 80R, 80RR and 80RRA is admissible from the assessment year 2005-06 onwards.

38. Inserted by the IT (Eleventh Amdt.) Rules, 1999, w.e.f. 1-6-1999. No deduction under section 80-O is admissible from the assessment year 2005-06 onwards.

39. Inserted by the IT (Third Amdt.) Rules, 1970. See also section 206AA.

*Heading is provided by Editors.

India, and which carries on operations in India through a branch, any income by way of interest, not being “interest on securities”, or any other sum, not being dividends;

(ii) in the case of any other person who carries on a business or profession in India through a branch, any sum, not being interest or dividends,

in so far as such interest or other sum is receivable by such branch on its own account and not on behalf of its head office or any branch situated outside India, or any other person.

(2) The conditions referred to in sub-rule (1) are the following, namely :—

(i) the person concerned has been regularly assessed to income-tax in India and has furnished the returns of income for all assessment years for which such returns became due on or before the date on which the application under sub-rule (1) is made;

(ii) he is not in default or deemed to be in default in respect of any tax (including advance tax and tax payable under section 140A), interest, penalty, fine, or any other sum payable under the Act;

(iii) he has not been subjected to penalty under clause (iii) of sub-section (1) of section 271;

(iv) where the person concerned is not a banking company referred to in clause (i) of sub-rule (1)—

(a) he has been carrying on business or profession in India continuously for a period of not less than five years immediately preceding the date of the application, and

(b) the value of the fixed assets in India of such business or profession as shown in his books for the previous year which ended immediately before the date of the application or, where the accounts in respect of such previous year have not been made up before the said date, the previous year immediately preceding that year, exceeds fifty lakhs of rupees.

(3) The application under sub-rule (1) by a banking company shall be in Form No. 15C and by any other person [referred to in clause (i) of sub-rule (1)] shall be in Form No. 15D.

(4) The ⁴⁰[Assessing Officer] may give a certificate authorising the person concerned to receive the income specified in clause (i) or clause (ii) of sub-rule (1), without deduction of tax under sub-section (1) of section 195, if he is satisfied that all the conditions laid down in sub-rule (2) are fulfilled and the issue of any such certificate will not be prejudicial to the interests of revenue.

(5) The certificate shall be valid for the financial year specified therein, unless it is cancelled by the ⁴⁰[Assessing Officer] at any time before the expiry of the said financial year. An application for a fresh certificate may be made, if required, after the expiry of the period of validity of the earlier certificate, or within three months before the expiry thereof.

40. Substituted for “Income-tax Officer” by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988.

(6) ⁴¹[* * *].

⁴²**[Declaration by person claiming receipt of certain incomes without deduction of tax.**⁴³

29C. (1) A declaration under sub-section (1) by an individual or under sub-section (1A) of section 197A by a person (not being a company or firm) shall be in Form No. 15G and shall be verified in the manner indicated therein.

⁴⁴[(1A) A declaration under sub-section (1C) of section 197A by an individual resident in India, who is of the age of sixty-five years or more at any time during the previous year and is entitled to a deduction from the amount of income-tax on his total income referred to in section 88B shall be in Form No. 15H and shall be verified in the manner indicated therein.]

(2) The declaration referred to in sub-rule (1) ⁴⁴[or sub-rule (1A)] shall be furnished in duplicate to the person responsible for paying the "interest on securities" or dividend or interest other than "interest on securities" or, income in respect of units or, as the case may be, any amount referred to in clause (a) of sub-section (2) of section 80CCA.

(3) The person referred to in sub-rule (2) shall deliver or cause to be delivered to the Chief Commissioner or Commissioner, one copy of the declaration referred to in sub-rule (1) ⁴⁴[or sub-rule (1A)] on or before the seventh day of the month next following the month in which the declaration is furnished to him.

Explanation.—For the purposes of sub-rule (3), the Chief Commissioner or the Commissioner means the Chief Commissioner or Commissioner to whom the Assessing Officer having jurisdiction to assess the person referred to in sub-rule (2) is subordinate.]

⁴⁵**[Form of declaration under second proviso/third proviso to clause (i) of sub-section (3) of section 194C.***

29D. (1) The declaration under the second proviso to clause (i) of sub-section (3) of section 194C by a sub-contractor shall be in Form No. 15-I and shall be verified in the manner indicated therein by such sub-contractor.

41. Omitted by the IT (Twenty-fourth Amdt.) Rules, 2003, w.e.f. 1-10-2003. Prior to its omission, it read as under :

"(6) The certificate shall be issued in Form No. 15E."

42. Substituted by the IT (Eighth Amdt.) Rules, 2003, w.e.f. 9-6-2003. Prior to its substitution, rule 29C, as inserted by the IT (Fifth Amdt.) Rules, 1982, w.e.f. 21-6-1982 and later on amended by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988, IT (Eleventh Amdt.) Rules, 1991, w.e.f. 1-10-1991, IT (Twelfth Amdt.) Rules, 1992, w.e.f. 1-6-1992, IT (Seventh Amdt.) Rules, 1995, w.e.f. 1-7-1995 and IT (Thirty-second Amdt.) Rules, 1999, w.e.f. 19-11-1999.

43. With effect from 1-4-2010, no declaration in Form No. 15G or Form No. 15H will be treated as valid unless the declarant (deductee) has furnished his correct PAN in such declaration. (See section 206AA)

44. Inserted by the IT (Fourteenth Amdt.) Rules, 2003, w.e.f. 1-8-2003.

45. Inserted by the IT (Fourteenth Amdt.) Rules, 2005, w.e.f. 17-6-2005. Section 194C is now substituted by the Finance (No. 2) Act, 2009, w.e.f. 1-10-2009.

*Heading is provided by Editors.

(2) The declaration referred to in sub-rule (1) may be furnished to the contractor responsible for paying or crediting any sum to the account of the sub-contractor before the event of such sum being credited or paid to such sub-contractor.

(3) The particulars under the third proviso to clause (i) of sub-section (3) of section 194C to be furnished by a contractor responsible for paying any sum to such sub-contractor shall be in Form No. 15J.

(4) The particulars referred to in sub-rule (3) shall be furnished,—

- (i) to the Commissioner of Income-tax, so designated by the Chief Commissioner of Income-tax, within whose area of jurisdiction, the office of the contractor referred to in sub-rule (3) is situated;
- (ii) on or before the 30th June following the financial year.]

⁴⁶[**Time and mode of payment to Government account of tax deducted at source or tax paid under sub-section (1A) of section 192**^{46a} .

30. (1) *All sums deducted in accordance with the provisions of Chapter XVII-B by an office of the Government shall be paid to the credit of the Central Government—*

- (a) *on the same day where the tax is paid without production of an income-tax challan; and*

46. Substituted by the IT (Sixth Amdt.) Rules, 2010, w.r.e.f. **1-4-2010** (as corrected by Notification No. SO 1736(E), dated 19-7-2010). Prior to its substitution, rule 30 as amended by the IT (First Amdt.) Rules, 2010, w.r.e.f. **1-4-2009**, IT (Eighth Amdt.) Rules, 2009 (not enforced), IT (Sixteenth Amdt.) Rules, 2004, w.e.f. 30-11-2004, IT (Twelfth Amendment) Rules, 2003, w.e.f. 31-7-2003, IT (Amdt.) Rules, 1967, IT (Fifth Amdt.) Rules, 1967, IT (Second Amdt.) Rules, 1968, IT (Third Amdt.) Rules, 1972, IT (Third Amdt.) Rules, 1973, w.e.f. 15-7-1973, IT (Fifth Amdt.) Rules, 1978, w.e.f. 1-6-1978, IT (Sixth Amdt.) Rules, 1981, w.e.f. 19-6-1981, IT (Sixth Amdt.) Rules, 1988, w.e.f. 12-7-1988, IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988, IT (Twelfth Amdt.) Rules, 1990, w.e.f. 8-6-1990, IT (Sixth Amdt.) Rules, 1991, w.e.f. 28-2-1991, IT (Eleventh Amdt.) Rules, 1991, w.e.f. 1-10-1991, IT (Eleventh Amdt.) Rules, 1992, w.e.f. 1-6-1992, IT (Tenth Amdt.) Rules, 1993, w.e.f. 16-6-1993, IT (Fourth Amdt.) Rules, 1994, w.e.f. 1-6-1994, IT (Twelfth Amdt.) Rules, 1995, w.e.f. 1-7-1995, IT (Third Amdt.) Rules, 1996, w.e.f. 2-7-1996 and IT (Twenty-fifth Amdt.) Rules, 2002, w.r.e.f. 1-6-2002, read as under :

'30. *Time and mode of payment to Government account of tax deducted at source or tax paid under sub-section (1A) of section 192.—*(1) All sums deducted in accordance with the provisions of sections 192 to 194, section 194A, section 194B, section 194BB, section 194C, section 194D, section 194E, section 194EE, section 194F, section 194G, section 194H, section 194-I, section 194J, section 194K, section 194LA, section 195, section 196A, section 196B, section 196C and section 196D shall be paid to the credit of the Central Government—

- (a) in the case of deduction by or on behalf of the Government, on the same day;
- (b) in the case of deduction by or on behalf of persons other than those mentioned in clause (a),—
 - (i) in respect of sums deducted in accordance with the provisions of section 193, section 194A, section 194C, section 194D, section 194E, section 194G, section 194H, section 194-I, section 194J, section 195, section 196A, section 196B, section 196C and section 196D—

(Contd. on p. 1.176)

(Contd. from p. 1.175)

- (1) where the income by way of interest on securities referred to in section 193 or the income by way of interest referred to in section 194A or the sum referred to in section 194C or the income by way of insurance commission referred to in section 194D or the payment to non-resident sportsmen or sports associations referred to in section 194E or the income by way of commission, remuneration or prize on sale of lottery tickets referred to in section 194G or the income by way of commission or brokerage referred to in section 194H or the income by way of rent referred to in section 194-I or the income by way of fees for professional or technical services referred to in section 194J or the interest or any other sum referred to in section 195 or the income of a foreign company referred to in sub-section (2) of section 196A or the income from units referred to in section 196B or the income from foreign currency bonds or shares of an Indian company referred to in section 196C or the income of Foreign Institutional Investors from securities referred to in section 196D is credited by a person to the account of the payee as on the date up to which the accounts of such person are made, within two months of the expiration of the month in which that date falls;
- (2) in any other case, within one week from the last day of the month in which the deduction is made; and
- (ii) in respect of sums deducted in accordance with the other provisions within one week from the last day of the month in which the deduction is made:

Provided that the Assessing Officer may, in special cases, and with the approval of the Joint Commissioner—

- (a) in cases falling under sub-clause (i), permit any person to pay the income-tax deducted from any income by way of interest, other than income by way of interest on securities or any income by way of insurance commission or any income by way of commission or brokerage referred to in section 194H quarterly on July 15, October 15, January 15 and April 15; and
- (b) in cases falling under sub-clause (ii), permit an employer to pay income-tax deducted from any income chargeable under the head "Salaries" quarterly on June 15, September 15, December 15 and March 15.
- (1A) All sums paid under sub-section (1A) of section 192 shall be paid to the credit of the Central Government—
- (a) in the case of payment on behalf of the Government, on the same day;
- (b) in all other cases, within one week from the last day of each month on which the income-tax is due under sub-section (1B) of section 192.
- (2) The person responsible for making the deduction from any income chargeable under the head "Salaries" or, the person who pays tax, referred to in sub-section (1A) of section 192 or, in cases covered by sub-section (5) of section 192, the trustees shall pay the amount of tax so deducted to the credit of the Central Government by remitting it within the time prescribed in sub-rule (1) into any branch of the Reserve Bank of India or of the State Bank of India or of any authorized bank accompanied by an income-tax challan :

Provided that where the deduction or payment, as the case may be, is made by or on behalf of Government, the amounts shall be credited within the time and in the manner aforesaid without the production of a challan.

- (3) The person responsible for making deduction under sections 193, 194, 194A, 194B, 194BB, 194C, 194D, 194E, 194EE, 194F, 194G, 194H, 194-I, 194J, 194K, 195, 196A, 196B, 196C and 196D shall pay the amount of tax so deducted to the credit of the Central Government by remitting it within the time prescribed in sub-rule (1) into any branch of the Reserve Bank of India or of the State Bank of India or of any authorized bank accompanied by an income-tax challan, provided that where the deduction is made by or on behalf of Government the amount shall be credited within the time and in the manner aforesaid without the production of a challan.'

46a. See rule 200.

(b) *on or before seven days from the end of the month in which the deduction is made or income-tax is due under sub-section (1A) of section 192, where tax is paid accompanied by an income-tax challan.*

(2) *All sums deducted in accordance with the provisions of Chapter XVII-B by deductors other than an office of the Government shall be paid to the credit of the Central Government—*

(a) *on or before 30th day of April where the income or amount is credited or paid in the month of March; and*

(b) *in any other case, on or before seven days from the end of the month in which—*

(i) *the deduction is made; or*

(ii) *income-tax is due under sub-section (1A) of section 192.*

(3) *Notwithstanding anything contained in sub-rule (2), in special cases, the Assessing Officer may, with the prior approval of the Joint Commissioner, permit quarterly payment of the tax deducted under section 192 or section 194A or section 194D or section 194H for the quarters of the financial year specified to in column (2) of the Table below by the date referred to in column (3) of the said Table:—*

TABLE

Sl. No.	Quarter of the financial year ended on	Date for quarterly payment
(1)	(2)	(3)
1.	30th June	7th July
2.	30th September	7th October
3.	31st December	7th January
4.	31st March	30th April

B. Mode of payment

(4) *In the case of an office of the Government, where tax has been paid to the credit of the Central Government without the production of a challan, the Pay and Accounts Officer or the Treasury Officer or the Cheque Drawing and Disbursing Officer or any other person by whatever name called to whom the deductor reports the tax so deducted and who is responsible for crediting such sum to the credit of the Central Government, shall—*

(a) *submit a statement in Form No. 24G within ten days from the end of the month to the agency authorised by the Director General of Income-tax (Systems) in respect of tax deducted by the deductors and reported to him for that month; and*

(b) *intimate the number (hereinafter referred to as the Book Identification Number) generated by the agency to each of the deductors in respect of whom the sum deducted has been credited.*

(5) For the purpose of sub-rule (4), the Director General of Income-tax (Systems) shall specify the procedures, formats and standards for ensuring secure capture and transmission of data, and shall also be responsible for the day-to-day administration in relation to furnishing the information in the manner so specified.

(6)(i) Where tax has been deposited accompanied by an income-tax challan, the amount of tax so deducted or collected shall be deposited to the credit of the Central Government by remitting it within the time specified in clause (b) of sub-rule (1) or in sub-rule (2) or in sub-rule (3) into any branch of the Reserve Bank of India or of the State Bank of India or of any authorised bank.

(ii) Where tax is to be deposited in accordance with clause (i), by persons referred to in sub-rule (1) of rule 125, the amount deducted shall be electronically remitted into the Reserve Bank of India or the State Bank of India or any authorised bank accompanied by an electronic income-tax challan.

(7) For the purpose of this rule, the amount shall be construed as electronically remitted to the Reserve Bank of India or to the State Bank of India or to any authorised bank, if the amount is remitted by way of—

- (a) internet banking facility of the Reserve Bank of India or of the State Bank of India or of any authorised bank; or
- (b) debit card.

(8) Where tax is deducted before the 1st day of April, 2010, the provisions of this rule shall apply as they stood immediately before their substitution by the Income-tax (Sixth Amendment) Rules, 2010.]

Credit for tax deducted at source to a person other than the shareholder in certain circumstances.

30A. ⁴⁷[Omitted by the IT (Twenty-fourth Amdt.) Rules, 2003, w.e.f. 1-10-2003.]

47. Prior to its omission, rule 30A, as inserted by the IT (Sixth Amdt.) Rules, 1968 and amended by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988, read as under :

"30A. Credit for tax deducted at source to a person other than the shareholder in certain circumstances.—(1) Subject to the provisions of sub-rule (2), where the dividend on any share is assessable as the income of a person other than the shareholder, any deduction made in accordance with section 194 and paid to the Central Government, shall be deemed to be a payment of tax on behalf of, and the credit in respect thereof shall be given to, such other person in the circumstances specified below, namely :—

- (i) where a company has a right to appoint any person or persons, or where any nominee or nominees of the company has or have been appointed, as a director or directors of any other body corporate, and shares owned by such company in such other body corporate, to an amount not exceeding the nominal value of the shares which are required to be held by a director thereof, are registered in the name of any such person or nominee;

(Contd. on p. 1.179)

(Contd. from p. 1.178)

- (ii) where a company owns any shares in its subsidiary and such shares are registered in the name or names of any nominee or nominees of the company, if and in so far as it is necessary so to do, to ensure that the number of members of the subsidiary is not reduced, where it is a public company, below seven, and where it is a private company, below two ;
 - (iii) where a corporation established by or under a Central, State or Provincial Act owns any shares in a company and such shares are registered in the name or names of any nominee or nominees of the corporation in the circumstances specified in clause (i) or clause (ii);
 - (iv) where any person deposits, with any bank, including a co-operative bank or a land mortgage bank, any shares owned by him, for the collection of dividends thereon and such shares are registered in the name of the bank;
 - (v) where any person deposits with any other person any shares owned by him, by way of security for the repayment of any loan or the performance of any obligation and such shares are held by, or on behalf of, any of the following, namely :—
 - (a) the Government or the Reserve Bank of India or any body corporate owned by the Government, or the Reserve Bank of India, or in which not less than forty per cent of the shares are held (whether singly or taken together) by the Government or the Reserve Bank of India or a corporation owned by that bank;
 - (b) a local authority;
 - (c) the State Bank of India constituted under the State Bank of India Act, 1955 (23 of 1955), or any of its subsidiary banks;
 - (d) any banking company, including a co-operative bank or a land mortgage bank;
 - (e) the Industrial Finance Corporation of India, the Industrial Credit and Investment Corporation of India Ltd., the Madras Industrial and Investment Corporation of India Ltd., and the Refinance Corporation for Industry Ltd.;
 - (f) a State Financial Corporation established under the State Financial Corporations Act, 1951 (63 of 1951);
 - (g) an Industrial Development Corporation established in India by a State Government;
 - (h) the Life Insurance Corporation of India established under the Life Insurance Corporation of India Act, 1956 (31 of 1956);
 - (i) the Industrial Development Bank of India established under the Industrial Development Bank of India Act, 1964 (18 of 1964);
 - (vi) where shares are held by a trustee appointed under a trust declared by a duly executed instrument in writing whether testamentary or otherwise [including any wakf deed which is valid under the Mussalman Wakf Validating Act, 1913 (6 of 1913)] and the dividend thereon is received by the trustee on behalf of, or for the benefit of, any person who is a beneficiary of the trust;
 - (vii) where the shares owned by a firm are held in the name of any of its partners;
 - (viii) where the shares owned by a Hindu undivided family are held in the name of the karta or any other adult member of the family;
 - (ix) where the shares have been sold or otherwise transferred by the registered shareholder and action for registering the transfer in the name of the purchaser or other person has been taken in accordance with the provisions of section 108 of the Companies Act, 1956 (1 of 1956);
 - (x) where the shares owned by a member of a recognised Stock Exchange in India deposited with the Stock Exchange in accordance with the regulations of the Exchange are registered in the names of the trustees of the Exchange or the bankers of the Exchange.
- (2) The credit referred to in sub-rule (1) shall not be given unless the person entitled to such credit furnishes to the Assessing Officer a declaration in Form No. 15B made by him and the shareholder concerned, together with a certificate of deduction of tax at source in Form No. 19.”

⁴⁸[Certificate of tax deducted at source to be furnished under section 203.

31. (1) The certificate of deduction of tax at source by any person in accordance with Chapter XVII-B or the certificate of payment of tax by the employer on behalf of the employee under sub-section (1A) of section 192 shall be in—

- (a) Form No. 16^{48a}, if the deduction or payment of tax is under section 192; and
- (b) Form No. 16A if the deduction is under any other provision of Chapter XVII-B.

(2) The certificate referred to in sub-rule (1) shall specify:—

- (a) valid permanent account number (PAN) of the deductee;

48. Substituted by the IT (Sixth Amdt.) Rules, 2010, w.r.e.f. 1-4-2010 (as corrected by Notification No. SO 1736(E), dated 19-7-2010). Prior to its substitution, rule 31 as amended by the IT (First Amdt.) Rules, 2010, w.r.e.f. 1-4-2009, IT (Eighth Amdt.) Rules, 2009 (not enforced), IT (Twenty-fifth Amdt.) Rules, 2002, w.r.e.f. 1-6-2002, IT (Fifth Amdt.) Rules, 2004, w.e.f. 1-4-2004, IT (Sixteenth Amdt.) Rules, 2004, w.e.f. 30-11-2004, IT (Fifth Amdt.) Rules, 1967, IT (Third Amdt.) Rules, 1972, IT (Third Amdt.) Rules, 1973, IT (Fifth Amdt.) Rules, 1978, IT (Ninth Amdt.) Rules, 1988, w.e.f. 1-4-1989, IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988, IT (Sixth Amdt.) Rules, 1991, w.e.f. 28-2-1991, IT (Eleventh Amdt.) Rules, 1991, w.e.f. 1-10-1991, IT (Eleventh Amdt.) Rules, 1992, w.e.f. 1-6-1992, IT (Tenth Amdt.) Rules, 1993, w.e.f. 16-6-1993, IT (Eleventh Amdt.) Rules, 1993, w.e.f. 1-7-1993, IT (Fourth Amdt.) Rules, 1994, w.e.f. 1-6-1994, IT (Twelfth Amdt.) Rules, 1995, w.e.f. 1-7-1995 and IT (Third Amdt.) Rules, 1996, w.e.f. 2-7-1996, read as under :

“31. Certificate of tax deducted at source or tax paid under sub-section (1A) of section 192.—

(1) The certificate of deduction of tax at source or, the certificate of payment of tax by the employer on behalf of the employee, under section 203 to be furnished by any person deducting tax in accordance with the provisions of—

- (a) section 192 shall be in Form No. 16 :

Provided that in the case of an individual, resident in India, where his income from salaries before allowing deductions under section 16 of the Income-tax Act, 1961 does not exceed rupees one lakh fifty thousand, the certificate of deduction of tax at source shall be in Form No. 16AA;

- (b) section 193, section 194, section 194A, section 194B, section 194BB, section 194C, section 194D, section 194E, section 194EE, section 194F, section 194G, section 194-I, section 194J, section 194K, section 194LA, section 195, section 196A, section 196B, section 196C and section 196D shall be in Form No. 16A.

(2) The certificate mentioned in sub-rule (1) shall be furnished within a period of one month from the end of the month during which the credit has been given or the sums have been paid or, as the case may be, a cheque or warrant for payment of any dividend has been issued to a shareholder :

Provided that where the income by way of interest on securities referred to in section 193 or the income by way of interest referred to in section 194A or the sum referred to in section 194C or the income by way of insurance commission referred to in section 194D or the payment to non-resident sportsmen or sports associations referred to in section 194E or the income by way of commission, remuneration or prize on sale of lottery tickets referred to in section 194G or the income by way of commission or brokerage referred to in section 194H or the income by way of rent referred to in section 194-I or the income by way of fees for professional or technical services referred to in section 194J or the interest or any other sum referred to in section 195 or the income of a foreign company referred to in sub-section (2) of section 196A or the income from units referred to in section 196B or the income from foreign currency bonds or shares of an Indian company referred to in section 196C or the income of Foreign Institutional Investors from securities referred to in section 196D is credited by a person to the account of the payee as on the date up to which the account of such person are made, the certificate under sub-rule (1) shall be issued within a week after the expiry of two months from the month in which income is so credited :

(Contd. on p. 1.181)

- (b) *valid tax deduction and collection account number (TAN) of the deductor;*
- (c) (i) *book identification number or numbers where deposit of tax deducted is without production of challan in case of an office of the Government;*
- (ii) *challan identification number or numbers in case of payment through bank;*
- (d) (i) *receipt number of the relevant quarterly statement of tax deducted at source which is furnished in accordance with the provisions of rule 31A;*
- (ii) *receipt numbers of all the relevant quarterly statements in case the statement referred to in clause (i) is for tax deducted at source from income chargeable under the head "Salaries".*

(3) *The certificates in Forms specified in column (2) of the Table below shall be furnished to the employee or the payee, as the case may be, as per the periodicity specified in the corresponding entry in column (3) and by the time specified in the corresponding entry in column (4) of the said Table:—*

TABLE

Sl. No.	Form No.	Periodicity	Due date
(1)	(2)	(3)	(4)
1.	16	Annual	<i>By 31st day of May of the financial year immediately following the financial year in which the income was paid and tax deducted.</i>
2.	16A	Quarterly	<i>Within fifteen days from the due date for furnishing the statement of tax deducted at source under rule 31A.</i>

(Contd. from p. 1.180)

Provided further that the certificate in the case of deduction of tax under sub-section (1) of section 192 or, payment of tax by the employer on behalf of the employee, under sub-section (1A) of that section or section 194D may be furnished within one month from the close of the financial year in which such deduction was made :

Provided also that the certificate in cases, other than those mentioned in the second proviso, where payment of income-tax deducted is permitted quarterly in accordance with clause (a) of the proviso to clause (b) of sub-rule (1) of rule 30 may be furnished within fourteen days from the date of payment of income-tax:

Provided also that where more than one certificate is required to be furnished to a payee for deductions of income-tax made during a financial year, the person deducting the tax, may on request from such payee, issue within one month from the close of such financial year a consolidated certificate in Form No. 16A for tax deducted during whole of such financial year.

(3) Where in a case, the TDS certificate issued under this rule is lost, the person deducting tax at source may issue a duplicate certificate of deduction of tax at source on a plain paper giving necessary details as contained in Form No. 16 or Form No. 16A, as the case may be.

(4) The Assessing Officer before giving credit for the tax deducted at source on the basis of duplicate certificate referred to in sub-rule (3), shall get the payment certified from the Assessing Officer designated in this behalf by the Chief Commissioner or the Commissioner and shall also obtain an Indemnity Bond from the assessee."

48a. For use of Form No. 16 by Pensioner, *See Circular No. 761, dated 13-1-1998.*

(4) If an assessee is employed by more than one employer during the year, each of the employers shall issue Part A of the certificate in Form No. 16 pertaining to the period for which such assessee was employed with each of the employers and Part B may be issued by each of the employers or the last employer at the option of the assessee.

(5) The deductor may issue a duplicate certificate in Form No. 16 or Form No. 16A if the deductee has lost the original certificate so issued and makes a request for issuance of a duplicate certificate and such duplicate certificate is certified as duplicate by the deductor.

(6) (i) Where a certificate is to be furnished in Form No. 16, the deductor may, at his option, use digital signatures to authenticate such certificates.

(ii) In case of certificates issued under clause (i), the deductor shall ensure that—

- (a) the provisions of sub-rule (2) are complied with;
- (b) once the certificate is digitally signed, the contents of the certificates are not amenable to change; and
- (c) the certificates have a control number and a log of such certificates is maintained by the deductor.

(7) Where a certificate is to be furnished for tax deducted before the 1st day of April, 2010, it shall be furnished in the Form in accordance with the provisions of the rules as they stood immediately before their substitution by the Income-tax (Sixth Amendment) Rules, 2010.

Explanation.—For the purpose of this rule and rule 37D, challan identification number means the number comprising the Basic Statistical Returns (BSR) Code of the Bank branch where the tax has been deposited, the date on which the tax has been deposited and challan serial number given by the bank.]

⁴⁹[Statement of deduction of tax under sub-section (3) of section 200.

31A. (1) Every person responsible for deduction of tax under Chapter XVII-B, shall, in accordance with the provisions of sub-section (3) of section 200, deliver, or cause to be delivered, the following quarterly statements to the Director General of Income-tax (Systems) or the person authorised by the Director General of Income-tax (Systems), namely:—

- (a) Statement of deduction of tax under section 192 in Form No. 24Q;
- (b) Statement of deduction of tax under sections 193 to 196D in—
 - (i) Form No. 27Q in respect of the deductee who is a non-resident not being a company or a foreign company or resident but not ordinarily resident; and
 - (ii) Form No. 26Q in respect of all other deductees.

(2) Statements referred to in sub-rule (1) for the quarter of the financial year ending with the date specified in column (2) of the Table below shall be furnished by the due date specified in the corresponding entry in column (3) of the said Table:—

49. Substituted by the IT (Sixth Amdt.) Rules, 2010, w.r.e.f. **1-4-2010** (as corrected by Notification No. SO 1736(E), dated 19-7-2010). Prior to its substitution, rule 31A as amended by the IT (First Amdt.) Rules, 2010, w.r.e.f. **1-4-2009**, IT (Eighth Amdt.) Rules, 2009 (not enforced), IT (Tenth Amdt.) Rules, 2007, w.e.f. 1-9-2007, IT (Tenth Amdt.) Rules, 2005, w.e.f. 30-3-2005 and IT (Nineteenth Amdt.) Rules, 2005, w.e.f. 30-6-2005, read as under :

(Contd. on p. 1.183)

(Contd. from p. 1.182)

"31A. *Quarterly statement of deduction of tax under sub-section (3) of section 200.*—(1) Every person, being a person responsible for deducting tax under Chapter XVII-B shall, in accordance with the provisions of sub-section (3) of section 200, deliver or cause to be delivered to the Director-General of Income-tax (Systems) or the person authorized by the Director-General of Income-tax (Systems), quarterly statement—

(i) in Form No. 24Q in respect of deduction of tax at source under sub-sections (1) and (1A) of section 192; and

(ii) in Form No. 26Q in respect of other cases of deduction of tax at source, on or before the 15th July, the 15th October, the 15th January in respect of the first three quarters of the financial year and on or before the 15th June following the last quarter of the financial year :

Provided that where,—

(a) the deductor is an office of Government; or

(b) the deductor is a company; or

(c) the deductor is a person required to get his accounts audited under section 44AB in the immediately preceding financial year; or

(d) the number of deductees' records in a quarterly statement for any quarter of the immediately preceding financial year is equal to or more than fifty,

the person responsible for deducting tax at source, and the principal officer in the case of a company shall deliver or cause to be delivered such quarterly statements on computer media (3.5" 1.44 MB floppy diskette or CD-ROM of 650 MB capacity):

Provided further that a person other than a person referred to in the first proviso, responsible for deducting tax at source, may at his option, deliver or cause to be delivered the quarterly statements on computer media (3.5" 1.44 MB floppy diskette or CD-ROM of 650 MB capacity):

Provided also that a person responsible for deducting tax at source from the payments referred to in rule 37A shall furnish quarterly statements in accordance with the provisions of rule 37A and rule 37B.

(2) The person responsible for deducting tax at source and preparing quarterly statements shall,—

(i) quote his tax deduction and collection account number (TAN) and permanent account number (PAN) in the quarterly statement:

Provided that the permanent account number shall not be required to be quoted where tax has been deducted by or on behalf of the Government;

(ii) quote the permanent account number of all persons in respect of whose income, tax has been deducted:

Provided that the permanent account number shall not be quoted in respect of the persons to whom the second proviso to sub-section (5B) of section 139A of the Act applies;

(iii) furnish particulars of the tax paid to the Central Government.

(3) The person responsible for deducting tax at source and preparing quarterly statements on computer media shall, in addition to the provisions in sub-rule (2),—

(i) prepare the quarterly statement as per the data structure provided by the e-filing Administrator designated by the Board for the purposes of administration of Electronic Filing of Returns of Tax Deducted at Source Scheme, 2003 supported by a declaration in Form No. 27A in paper format:

Provided that in case any compression software has been used for preparing the quarterly statement on computer media, such compression software shall be furnished on the same computer media;

(ii) affix a label indicating name, permanent account number, tax deduction and collection account number and address of the person responsible for deduction of tax at source, the period to which the statement pertains and the volume number of the said computer media in case more than one volume of such media is used."

TABLE

Sl. No.	Date of ending of the quarter of the financial year	Due date
(1)	(2)	(3)
1.	30th June	15th July of the financial year
2.	30th September	15th October of the financial year
3.	31st December	15th January of the financial year
4.	31st March	15th May of the financial year immediately following the financial year in which deduction is made.

(3) (i) *The statements referred to in sub-rule (1) may be furnished in any of the following manners, namely:—*

- (a) *furnishing the statement in paper form;*
- (b) *furnishing the statement electronically in accordance with the procedures, formats and standards specified under sub-rule (5) along with the verification of the statement in Form 27A.*

(ii) *Where,—*

- (a) *the deductor is an office of the Government; or*
- (b) *the deductor is the principal officer of a company; or*
- (c) *the deductor is a person who is required to get his accounts audited under section 44AB in the immediately preceding financial year; or*
- (d) *the number of deductee's records in a statement for any quarter of the financial year are twenty or more,*

the deductor shall furnish the statement in the manner specified in item (b) of clause (i).

(iii) *Where deductor is a person other than the person referred to in clause (ii), the statements referred to in sub-rule (1) may, at his option, be delivered or cause to be delivered in the manner specified in item (b) of clause (i).*

(4) *The deductor at the time of preparing statements of tax deducted shall,—*

- (i) *quote his tax deduction and collection account number (TAN) in the statement;*
- (ii) *quote his permanent account number (PAN) in the statement except in the case where the deductor is an office of the Government;*
- (iii) *quote the permanent account number of all deductees;*
- (iv) *furnish particulars of the tax paid to the Central Government including book identification number or challan identification number, as the case may be;*
- ^{49a}(v) *furnish particulars of amount paid or credited on which tax was not deducted in view of the issue of certificate of no deduction of tax under section 197 by the Assessing Officer of the payee;*
- (vi) *furnish particulars of amount paid or credited on which tax was not deducted in view of the compliance of provisions of sub-section (6) of section 194C by the payee.]*

49a. Inserted by the IT (Second Amndt.) Rules, 2011, w.e.f. 1-4-2011.

(5) *The Director General of Income-tax (Systems) shall specify the procedures, formats and standards for the purposes of furnishing of the statements and shall be responsible for the day-to-day administration in relation to furnishing of the statements in the manner so specified.*

(6) *Where a statement of tax deducted at source is to be furnished for tax deducted before the 1st day of April, 2010, the provisions of this rule and rule 37A shall apply as they stood immediately before their substitution or omission by the Income-tax (Sixth Amendment) Rules, 2010.]*

⁵⁰[**Statement of collection of tax under proviso to sub-section (3) of section 206C.**

31AA. (1) *Every collector, shall, in accordance with the provisions of the proviso to sub-section (3) of section 206C, deliver, or cause to be delivered, to the Director General of Income-tax (Systems) or the person authorised by the Director General of Income-tax (Systems), a quarterly statement in Form No. 27EQ.*

(2) *Statements referred to in sub-rule (1) for the quarter of the financial year ending with the date specified in column (2) of the Table below shall be furnished by the due date specified in the corresponding entry in column (3) of the said Table:—*

50. Substituted by the IT (Sixth Amdt.) Rules, 2010, w.r.e.f. **1-4-2010** (as corrected by Notification No. SO 1736(E), dated 19-7-2010). Prior to its substitution, rule 31AA as amended by the IT (First Amdt.) Rules, 2010, w.r.e.f. **1-4-2009** [corrected by SO 667(E), dated 23-3-2010], IT (Eighth Amdt.) Rules, 2009 (not enforced), IT (Tenth Amdt.) Rules, 2005, w.e.f. 30-3-2005, IT (Nineteenth Amdt.) Rules, 2005, w.e.f. 30-6-2005 and IT (Tenth Amdt.) Rules, 2007, w.e.f. 1-9-2007, read as under :

"31AA. Quarterly statement of collection of tax under sub-section (3) of section 206C.—

(1) Every person, being a person responsible for collecting tax under section 206C shall, in accordance with the proviso to sub-section (3) of section 206C, deliver or cause to be delivered to the Director-General of Income-tax (Systems) or the person authorized by the Director General of Income-tax (Systems), quarterly statement in Form No. 27EQ on or before the 15th July, the 15th October, the 15th January in respect of the first three quarters of the financial year and on or before the 30th April following the last quarter of the financial year :

Provided that where,—

- (a) the collector is an office of Government; or
- (b) the collector is a company; or
- (c) the collector is a person required to get his accounts audited under section 44AB in the immediately preceding financial year; or
- (d) the number of collectees' records in a quarterly statement for any quarter of the immediately preceding financial year is equal to or more than fifty,

the person responsible for collecting tax at source, and the principal officer in the case of a company shall deliver or cause to be delivered such quarterly statements on computer media (3.5" 1.44 MB floppy diskette or CD-ROM of 650 MB capacity):

Provided further that a person other than a person referred to in the first proviso, responsible for collecting tax at source, may at his option, deliver or cause to be delivered the quarterly statements on computer media (3.5" 1.44 MB floppy diskette or CD-ROM of 650 MB capacity).

(2) The person responsible for collecting tax at source and preparing quarterly statements shall,—

- (i) quote his tax deduction and collection account number (TAN) and permanent account number (PAN) in the quarterly statement:

Provided that the permanent account number shall not be required to be quoted where tax has been collected by or on behalf of the Government;

- (ii) quote the permanent account number of all persons in respect of whose income, tax has been collected;
- (iii) furnish particulars of the tax paid to the Central Government.

(Contd. on p. 1.186)

TABLE

Sl. No.	Quarter of the financial year ended	Due date
(1)	(2)	(3)
1.	30th June	15th July of the financial year
2.	30th September	15th October of the financial year
3.	31st December	15th January of the financial year
4.	31st March	15th May of the financial year immediately following the financial year in which collection is made

(3) (i) *The statement referred to in sub-rule (1) may be furnished in any of the following manners, namely:—*

- (a) *furnishing the statement in paper form;*
- (b) *furnishing the statement electronically in accordance with the procedures, formats and standards specified under sub-rule (5) alongwith the verification of the statement in Form 27A.*

(ii) *Where,—*

- (a) *the collector is an office of the Government; or*
- (b) *the collector is the principal officer of a company; or*
- (c) *the collector is a person who is required to get his accounts audited under section 44AB in the immediately preceding financial year;*
- (d) *the number of collectee's records in a statement for any quarter of the financial year are twenty or more,*

the collector shall furnish the statement in the manner specified in item (b) of clause (i).

(iii) *Where the collector is a person other than the person referred to in clause (ii), the statement referred to in sub-rule (1) may, at his option, be delivered or cause to be delivered in the manner specified in item (b) of clause (i).*

(4) *The collector at the time of preparing statements of tax collected shall,—*

- (i) *quote his tax deduction and collection account number (TAN) in the statement;*

(Contd. from p. 1.185)

(3) *The person responsible for collecting tax at source and preparing quarterly statements on computer media shall, in addition to the provisions in sub-rule (2),—*

- (i) *prepare the quarterly statement as per the data structure provided by the e-filing Administrator designated by the Board for the purposes of administration of Electronic Filing of Returns of Tax Collected at Source Scheme, 2005 supported by a declaration in Form No. 27A in paper format:*

Provided that in case any compression software has been used for preparing the quarterly statement on computer media, such compression software shall be furnished on the same computer media;

- (ii) *affix a label indicating name, permanent account number, tax deduction and collection account number and address of the person responsible for collection of tax at source, the period to which the statement pertains and the volume number of the said computer media in case more than one volume of such media is used."*

- (ii) quote his permanent account number (PAN) in the statement except in the case where the collector is an office of the Government;
- (iii) quote the permanent account number of all collectees;
- (iv) furnish particulars of the tax paid to the Central Government including book identification number or challan identification number, as the case may be.

(5) The Director General of Income-tax (Systems) shall specify the procedures, formats and standards for the purposes of furnishing of the statements and shall be responsible for the day-to-day administration in relation to furnishing of the statements in the manner so specified.

(6) Where a statement of tax collected at source is to be furnished for tax collected before the 1st day of April, 2010, the provisions of this rule shall apply as they stood immediately before their substitution by the Income-tax (Sixth Amendment) Rules, 2010.]

⁵¹[**Annual statement of tax deducted or collected or paid.**

31AB. ⁵²[The Director General of Income-tax (Systems) or the person authorised by the Director General of Income-tax (Systems)] shall deliver,—

- (i) to every person from whose income the tax has been deducted; or
- (ii) to the buyer referred to in sub-section (1) or, as the case may be, to the licensee or lessee referred to in sub-section (1C) of section 206C from whom the amount has been collected; or
- (iii) to every person in respect of whose income the tax has been paid,

⁵³[a statement referred to in section 203AA or the second proviso to sub-section (5) of section 206C, in Form No. 26AS by the 31st July] following the financial year during which taxes were deducted or collected or paid.]

⁵⁴[**Maintenance of particulars of time deposits by a banking company for furnishing quarterly return under section 206A.**

31AC. (1) Every branch of a banking company, which is required to make a quarterly return under sub-section (1) of section 206A in respect of interest on time deposits without deduction of tax at source, shall keep and maintain the particulars of such time deposits in Form No. 26QA.

51. Inserted by the IT (Tenth Amdt.) Rules, 2005, w.e.f. 30-3-2005.

52. Substituted for "The prescribed income-tax authority or the person authorised by such authority referred to in section 203AA or the second proviso to sub-section (5) of section 206C" by the IT (Nineteenth Amdt.) Rules, 2005, w.e.f. 30-6-2005.

53. Substituted for "a statement in Form No. 26AS by the 15th June", *ibid.*

54. Rules 31AC and 31ACA substituted for rule 31AC by the IT (Second Amendment) Rules, 2006, w.e.f. 17-3-2006. Prior to its substitution, rule 31AC, as amended by the IT (Seventeenth Amdt.) Rules, 2005, w.e.f. 28-6-2005, read as under:

"31AC. *Quarterly return of non-deduction of tax at source under section 206A.*—(1) The quarterly return to be furnished under sub-section (1) or sub-section (2) of section 206A shall be in Form No. 26QA and shall be verified in the manner indicated therein.

(2) The quarterly return referred to in sub-rule (1) shall be furnished,—

- (i) to the Director General of Income-tax (Systems) or the person authorised by the Director General of Income-tax (Systems);
- (ii) on or before the 31st July, the 31st October, the 31st January and the 30th June following the respective quarter of the financial year."

(2) Every branch referred to in sub-rule (1) which is maintaining its daily accounts on computer media, shall keep and maintain the particulars in Form No. 26QA on computer readable media.

Quarterly return under section 206A.

31ACA. (1) The quarterly return to be furnished by a banking company under sub-section (1) of section 206A in respect of time deposits shall be in Form No. 26QAA and shall be verified in the manner indicated therein.

(2) The quarterly return referred to in sub-rule (1) shall be furnished,—

- (i) to the Director General of Income-tax (Investigation), New Delhi or the person authorised by the Director General of Income-tax (Investigation), New Delhi;
- (ii) on or before the 31st July, the 31st October, the 31st January and the 30th June following the respective quarter of the financial year.

(3) The quarterly return comprising Part A and Part B of Form No. 26QAA, referred to in sub-rule (1), shall be furnished on computer readable media being a CD-ROM (650 MB or higher capacity) or Digital Video Disc (DVD), along with Part A of such Form on paper.

(4) The person responsible for furnishing the return referred to in sub-rule (1) shall ensure that—

- (i) where the data relating to the return is copied using data compression or backup software utility, the corresponding software utility or procedure for its decompression or restoration shall also be furnished along with the return made on computer readable media;
- (ii) the return is accompanied with a certificate regarding clean and virus free data.

Explanation.—For the purposes of rule 31AC and rule 31ACA, “time deposits” means deposits (excluding recurring deposits) repayable on the expiry of fixed periods.]

Monthly statement or certificate of deduction of tax from “Salaries”.

32. ⁵⁵[*Omitted by the IT (Third Amdt.) Rules, 1996, w.e.f. 2-7-1996.*]

⁵⁶[**Statement of deduction of tax from contributions paid by the trustees of an approved superannuation fund.**⁵⁷

33. (1) In cases where the trustees of an approved superannuation fund pay any contributions made by an employer, including interest on such contributions, to an employee during his life-time, they shall send within two months from the end of the financial year to the Assessing Officer referred to in rule 36A, a statement giving the following particulars, namely :—

55. Prior to its omission, rule 32 was substituted by the IT (Sixth Amdt.) Rules, 1988, w.e.f. 12-7-1988 and later on amended by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988.

56. Substituted by the IT (Twenty-fourth Amdt.) Rules, 2003, w.e.f. 1-10-2003. Earlier, rule 33 was amended by the IT (Sixth Amdt.) Rules, 1988, w.e.f. 12-7-1988, IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988 and IT (Third Amdt.) Rules, 1996, w.e.f. 2-7-1996, read as under :

“33. *Return of deduction of tax from contributions paid by the trustees of an approved superannuation fund.*—(1) In cases where the trustees of an approved superannuation fund pay any contributions made by an employer, including interest on such contributions, to an employee during his lifetime, they shall send within two months from the end of the financial year to the Assessing Officer referred to in rule 36A a return in Form No. 22.

(2) [“ * ”.]”

57. See rule 6 of Part B of the Fourth Schedule.

- (i) name of the superannuation fund;
- (ii) name and address of the employee;
- (iii) the period for which the employee has contributed to the superannuation fund;
- (iv) the amount of contribution repaid on account of principal and interest;
- (v) the average rate of deduction of tax during the preceding three years; and
- (vi) the amount of tax deducted on repayment.

(2) A verification in the following Form shall be annexed to the statement referred to in sub-rule (1) :

FORM OF VERIFICATION

We/I, the trustee(s) of the above named fund, do declare that what is stated in the above statement is true to the best of our/my information and belief.]

Return in lieu of monthly return under rule 32.

34. [Omitted by the IT (Sixth Amdt.) Rules, 1988, w.e.f. 12-7-1988.]

Annual return of salaries paid and tax deducted therefrom.

35. [Omitted by the IT (Sixth Amdt.) Rules, 1988, w.e.f. 12-7-1988.]

Prescribed persons for section 206.

36. ⁵⁸[(1)] In the case of offices of the Government the return under ⁵⁹[***] section 206 shall be furnished by—

- (a) Civil Audit Officers/Pay and Accounts Officers for all Gazetted Officers and others who draw their pay from Audit Offices/Pay and Accounts Offices on separate bills ; and also for all pensioners who draw their pensions from audit offices ;
- (b) Treasury Officers for all Gazetted Officers and others who draw their pay from treasuries on separate bills without counter-signature and also for all pensioners who draw their pensions from treasuries ;
- ⁶⁰[(c) Heads of Civil or Military offices for all Gazetted Officers and others, except those referred to in clause (b), and all non-gazetted officers, whose pay is drawn on establishment bills or on bills countersigned by the Head of Office ;]
- (d) Forest Disbursing Officers and Public Works Department Disbursing Officers in cases where direct payment from treasuries is not made, for themselves and their establishments ;
- (e) Head Postmasters for (i) themselves, their gazetted subordinates and the establishments of which the establishment pay bills are prepared by them, and (ii) gazetted supervising and controlling officers of whose

58. Inserted by the IT (Sixth Amdt.) Rules, 1988, w.e.f. 12-7-1988.

59. Words "sub-section (1) of" omitted, *ibid*.

60. Substituted by the IT (Amdt.) Rules, 1980, w.e.f. 19-1-1980.

headquarters post office they are in charge, and (iii) pensioners drawing their pensions through post offices ; head record clerks for themselves and all the staff whose pay is drawn in their establishment pay bills ; Divisional Engineers in respect of Telegraph and Telephone Engineering Divisions ; Accounts Officers, Stores and Workshops for the Stores and Workshops organisation and the Disbursing Officers in the case of the Administrative and Audit offices ;

- (f) (i) Controllers of Defence Accounts for Defence Services Officers and others including civilian gazetted officers under their payment control ;
- (ii) Officer Commanding Air Force Central Accounts Office, New Delhi—for Air Force Officers and others for whom IRLAs are maintained by them ;
- (iii) Supply Officer-in-charge, Naval Pay Office, Bombay—for navy officers and ratings for whom IRLAs are maintained by them ;
- (iv) Chief Accounting Officer, London—for Defence Services Personnel serving in or attached to High Commission in UK ;
- (g) The Financial Advisor and Chief Accounts Officer/Deputy Financial Advisor and Chief Accounts Officer of the Railways concerned—for all railway employees including the employees of the Railway Audit Department under their payment control ;
- (h) Heads of Offices in the Missions and Posts abroad for themselves and for all gazetted and other officers under their administrative control ;
- (i) Trade Commissioners abroad, wherever their establishments are independent of the Missions, for themselves and for all gazetted and other officers under their administrative control ;
- (j) The Chief Accounts Officers, India Supply Mission, Washington, and India Stores Department, London for themselves and for the gazetted and other officers under their administrative control ;
- (k) The Directors/Managers of the tourist offices abroad, for themselves and for the gazetted and other officers under their administrative control.

⁶¹[(2) In the case of a local authority or any other public body or association, the return under section 206 shall be furnished by—

- (a) the secretary, treasurer, manager or agent of the authority, public body or association, or
- (b) any person connected with the management or administration of the local authority, public body or association upon whom the ⁶²[Assessing Officer] has served a notice of his intention of treating him as the person responsible for filing the return.]

61. Inserted by the IT (Sixth Amdt.) Rules, 1988, w.e.f. 12-7-1988.

62. Substituted for "Income-tax Officer" by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988.

Prescribed authority for purposes of section 206.

36A. ⁶³[The returns referred to in rules 37 and 37A shall be furnished to the Director General of Income-tax (Systems) or the person or agency authorised by the Director General of Income-tax (Systems)⁶⁴.]

⁶⁵[**Prescribed returns regarding tax deducted at source under section 206.**

37. Every person, being a person responsible for deducting tax under Chapter XVII-B shall, in respect of a previous year, deliver or cause to be delivered to

63. Substituted by the IT (Nineteenth Amdt.) Rules, 2005, w.e.f. 30-6-2005. Prior to its substitution, rule 36A, as inserted by the IT (Sixth Amdt.) Rules, 1988, w.e.f. 12-7-1988 and amended by the IT (Fifth Amdt.) Rules, 1989, w.e.f. 1-4-1988, read as under :

"36A. *Income-tax authority for purposes of section 206.*—The returns referred to in rules 37 and 37A shall be furnished to—

- (i) the Assessing Officer, so designated by the Chief Commissioner or Commissioner of Income-tax, within whose area of jurisdiction, the office of the person responsible for deducting tax under Chapter XVII-B is situated ; or
- (ii) in any other case, to the Assessing Officer within whose area of jurisdiction, the office of the person responsible for deducting tax under Chapter XVII-B is situated."

64. Person authorised is NSDL.

65. Rules 37 and 37A were substituted for rule 37 by the IT (Sixth Amdt.) Rules, 1988, w.e.f. 12-7-1988. Prior to its substitution, original rule 37, as amended by the IT (Fifth Amdt.) Rules, 1967, IT (Second Amdt.) Rules, 1970, IT (Third Amdt.) Rules, 1972, IT (Third Amdt.) Rules, 1973, w.e.f. 15-7-1973 and IT (Fifth Amdt.) Rules, 1978, w.e.f. 1-6-1978, stood as under :

'37. *Returns regarding tax deducted at source in other cases.*—(1) In the case of income chargeable under the head "Interest on securities" where the deduction is not made by or on behalf of the Government, the person making deduction of tax under section 193 shall within fourteen days of the date of deduction send to the Income-tax Officer having jurisdiction to assess him a statement in Form No. 25.

(2) The person making deduction of tax in accordance with section 194 from dividends shall within fourteen days of the date of deduction send to the Income-tax Officer assessing the company a statement in Form No. 26.

(2A) The person making deduction of tax in accordance with section 194A from income by way of interest other than income chargeable under the head "Interest on securities" shall send to the Income-tax Officer having jurisdiction to assess him a statement in Form No. 26A quarterly on July 15th, October 15th, January 15th and April 15th in respect of the deduction made by him during the immediately preceding quarter :

Provided that in respect of tax deducted in cases to which item (1) of sub-clause (i) of clause (b) of sub-rule (1) of rule 30 applies, the particulars shall be furnished in the statement relating to the quarter next following the quarter in which the deduction is made.

(2B) The person making deduction of tax in accordance with section 194B from income by way of winnings from lottery or crossword puzzle shall send to the Income-tax Officer having jurisdiction to assess him a statement in Form No. 26B quarterly on July 15th, October 15th, January 15th and April 15th in respect of the deduction made by him during the immediately preceding quarter.

(2BB) The person making deduction of tax in accordance with section 194BB from income by way of winnings from horse race shall send to the Income-tax Officer having jurisdiction to assess him a statement in Form No. 26BB quarterly on July 15th, October 15th, January 15th and April 15th in respect of the deduction made by him during the immediately preceding quarter.

(Contd. on p. 1.192)

the ⁶⁶[Director-General of Income-tax (Systems) or the person or agency authorised by the Director General of Income-tax (Systems)] referred to in rule 36A, the returns mentioned in column (1) of the Table below in Form No. specified in the corresponding entry in column (2) of the said Table by the end of the month falling in the financial year immediately following the previous year as specified in the corresponding entry in column (3) of the said Table :—

⁶⁷[TABLE

<i>Sl. No.</i>	<i>Nature of returns</i>	<i>Form No.</i>	<i>Month</i>
	<i>(1)</i>	<i>(2)</i>	<i>(3)</i>
1.	Annual return of deduction of tax under section 192 from "Salaries"	24	June

(Contd. from p. 1.191)

(2C) The person making deduction of tax in accordance with section 194C from payments made to any contractor or sub-contractor shall send to the Income-tax Officer having jurisdiction to assess him a statement in Form No. 26C quarterly on July 15th, October 15th, January 15th and April 15th in respect of the deduction made by him during the immediately preceding quarter :

Provided that in respect of tax deducted in cases to which item (1) of sub-clause (i) of clause (b) of sub-rule (1) of rule 30 applies, the particulars shall be furnished in the statement relating to the quarter next following the quarter in which the deduction is made.

(2D) The person making deduction of tax in accordance with section 194D from income by way of insurance commission shall send to the Income-tax Officer having jurisdiction to assess him—

(a) a certificate in Form No. 26D quarterly on July 15th, October 15th, January 15th and April 15th in respect of the deduction made by him during the immediately preceding quarter :

Provided that in respect of tax deducted in cases to which item (1) of sub-clause (i) of clause (b) of sub-rule (1) of rule 30 applies, the particulars shall be furnished in the certificate relating to the quarter next following the quarter in which the deduction is made ;

(b) a statement in Form No. 26E on or before the 30th day of June in each year in respect of the deduction made by him during the immediately preceding financial year ;

(c) a statement in Form No. 26F on or before the 30th day of June in each year in respect of the insurance commission credited or paid during the immediately preceding financial year without deduction of tax.

(3) The person making deduction of tax in accordance with sections 193, 194 and 195 from any payment made to—

(i) a person, not being a company, who is a non-resident or a resident but not ordinarily resident, or

(ii) a company which is neither an Indian company nor a company which has made the prescribed arrangements for the declaration and payment of dividends within India, shall within fourteen days of the date of deduction send to the Income-tax Officer having jurisdiction to assess him a statement in Form No. 27.

66. Substituted for "Assessing Officer" by the IT (Nineteenth Amdt.) Rules, 2005, w.e.f. 30-6-2005. Earlier, it was substituted for "Income-tax Officer" by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988.

67. Substituted by the IT (Twelfth Amdt.) Rules, 2003, w.e.f. 31-7-2003. Prior to its substitution, Table was amended by the IT (Sixth Amdt.) Rules, 1988, w.e.f. 12-7-1988, IT (Twelfth Amdt.) Rules, 1990, w.e.f. 8-6-1990, IT (Sixth Amdt.) Rules, 1991, w.e.f. 28-2-1991, IT (Fifth Amdt.) Rules, 1992, w.e.f. 1-4-1992, IT (Fourth Amdt.) Rules, 1994, w.e.f. 1-6-1994, IT (Twelfth Amdt.) Rules, 1995, w.e.f. 1-7-1995, IT (Fourth Amdt.) Rules, 1997, w.e.f. 19-3-1997, IT (Thirty-second Amdt.) Rules, 1999, w.e.f. 19-11-1999 and IT (Twenty-third Amdt.) Rules, 2001, w.e.f. 11-10-2001, read as under :

(Contd. on p. 1.193)

<i>Sl. No.</i>	<i>Nature of returns</i>	<i>Form No.</i>	<i>Month</i>
	(1)	(2)	(3)
2.	Annual return of deduction of tax under section 193 from "Interest on securities", under section 194 from "Dividends", under section 194A from "Interest other than interest on securities", under section 194B from "Winnings from lotteries or crossword puzzles", under section 194BB from "Winnings from horse races", under section 194C from "Payments to any contractor or sub-contractor", under section 194D from "Insurance commission", under section 194EE from "Payments in respect of deposits under the National Savings Scheme, etc.", under section 194F from "Payments on account of repurchase of units by Mutual Fund or Unit Trust of India", under section 194G from "Commission, etc., on sale of lottery tickets", under section 194H from "Commission or brokerage", under	26	June.]

(Contd. from p. 1.192)

TABLE

<i>Sl. No.</i>	<i>Nature of returns</i>	<i>Form No.</i>	<i>Month</i>
	(1)	(2)	(3)
1.	Annual return of deduction of tax under section 192 from "Salaries"	24	May
2.	Annual return of deduction of tax under section 193 from "Interest on securities"	25	June
3.	Annual return of deduction of tax under section 194 from "Dividends" or under section 194K from "Income in respect of units"	26	April
4.	Annual return of deduction of tax under section 194A from "Interest other than interest on securities"	26A	June
5.	Annual return of deduction of tax under section 194B from "Winnings from lotteries or crossword puzzles"	26B	May
6.	Annual return of deduction of tax under section 194BB from "Winnings from horse races"	26BB	May
7.	Annual return of deduction of tax under section 194C from "Payments to any contractor or sub-contractor"	26C	June
8.	Annual return of deduction of tax under section 194D from "Insurance commission"	26D	June
9.	[* *]		
10.	Annual return of deduction of tax under section 194EE from "Payments in respect of deposits under National Savings Scheme, etc."	26F	June
11.	Annual return of deduction of tax under section 194F from "Payments on account of repurchase of units by Mutual Fund or Unit Trust of India"	26G	June
12.	Annual return of deduction of tax under section 194G from "Commission, etc., on sale of lottery tickets"	26H	June
13.	Annual return of deduction of tax under section 194H from "Commission or brokerage"	26-I	June
14.	Annual return of deduction of tax under section 194-I from "Rent"	26J	June
15.	Annual return of deduction of tax under section 194J from "Fees for professional or technical services"	26K	June.'

<i>Sl. No.</i>	<i>Nature of returns</i>	<i>Form No.</i>	<i>Month</i>
(1)	(2)	(3)	(3)
	section 194-I from "Rent", under section 194J from "Fees for professional or technical services", ⁶⁸ [under section 194K from "Income in respect of units" and under section 194LA from "Payment of compensation on acquisition of certain immovable property"].		

Returns regarding tax deducted at source in the case of non-residents.

37A. ⁶⁹[Omitted by the IT (Sixth Amdt.) Rules, 2010, w.r.e.f. 1-4-2010.]

Return of interest paid to residents without deduction of tax.

37AA. ⁷⁰[Omitted by the IT (Fourth Amdt.) Rules, 1997, w.e.f. 19-3-1997.]

⁷¹Returns regarding tax deducted at source on computer media under sub-section (2) of section 206.

37B. (1) Where a person responsible for deducting tax under Chapter XVII-B is required to file any return or statement referred to in rule 37 or rule 37A on a computer media, he shall deliver or cause to be delivered such return or statement

68. Substituted for 'and under section 194K from "Income in respect of units"' by the IT (Eleventh Amdt.) Rules, 2005, w.e.f. 30-3-2005.

69. Prior to its omission, rule 37A as amended by the IT (First Amdt.) Rules, 2010, w.r.e.f. 1-4-2009 [As corrected by SO 667(E), dated 23-3-2010], IT (Eighth Amdt.) Rules, 2009 (not enforced), IT (Fourth Amdt.) Rules, 2009, w.e.f. 1-4-2009, IT (Nineteenth Amdt.) Rules, 2005, w.e.f. 30-6-2005, IT (Third Amdt.) Rules, 1996, w.e.f. 2-7-1996, IT (Tenth Amdt.) Rules, 1993, w.e.f. 16-6-1993, IT (Eleventh Amdt.) Rules, 1992, w.e.f. 1-6-1992, IT (Sixth Amdt.) Rules, 1991, w.e.f. 28-2-1991, IT (Eleventh Amdt.) Rules, 1991, w.e.f. 1-10-1991, IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988 and IT (Sixth Amdt.) Rules, 1988, w.e.f. 12-7-1988, read as under :

"37A. *Returns regarding tax deducted at source in the case of non-residents.*—The person making deduction of tax in accordance with sections 193, 194, 194E, 195, 196A, 196B, 196C and 196D of the Act from any payment made to—

(i) a person, not being a company, who is a non-resident or a resident but not ordinarily resident, or

(ii) a company which is neither an Indian company nor a company which has made the prescribed arrangements for the declaration and payment of dividends within India, shall send on or before the 15th July, the 15th October, the 15th January in respect of the first three quarters of the financial year and on or before the 15th June following the last quarter of the financial year a statement in Form No. 27Q to the Director General of Income-tax (Systems) or the person or agency authorized by the Director General of Income-tax (Systems) referred to in rule 36A."

70. Prior to its omission, rule 37AA, as inserted by the IT (Fifth Amdt.) Rules, 1967 and later on amended by the IT (Sixth Amdt.) Rules, 1988, w.e.f. 12-7-1988 and IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988, read as under :

"37AA. *Return of interest paid to residents without deduction of tax.*—The return to be delivered to the Assessing Officer under section 206A, within 30 days from the 31st day of March in each year, shall be prepared in Form No. 27A and shall be verified in the manner indicated therein."

71. Substituted by the IT (Sixteenth Amdt.) Rules, 2003, w.e.f. 26-8-2003. Earlier rule 37B was inserted by the IT (Fifth Amdt.) Rules, 1999, w.e.f. 30-3-1999. Original rule 37B was inserted by the IT (Sixth Amdt.) Rules, 1977, w.e.f. 1-10-1977 and later on amended by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988 and thereafter omitted by the IT (Fourth Amdt.) Rules, 1997, w.e.f. 19-3-1997. Prior to its substitution, rule 37B read as under :

(Contd. on p. 1.195)

in accordance with such scheme⁷² as may be specified by the Board in this behalf within the time specified under rule 37 or rule 37A, as the case may be.

(2) The return or statement filed on a computer media shall contain all the information required under rule 37 or rule 37A, as the case may be.

(3) The return or statement filed on computer media shall be accompanied by Form No. 27A furnishing the information specified therein.]

⁷³[**Credit for tax deducted at source for the purposes of section 199.**

37BA. (1) Credit for tax deducted at source and paid to the Central Government in accordance with the provisions of Chapter XVII, shall be given to the person to whom payment has been made or credit has been given (hereinafter referred to as deductee) on the basis of information relating to deduction of tax furnished by the deductor to the income-tax authority or the person authorised by such authority.

(2) (i) If the income on which tax has been deducted at source is assessable in the hands of a person other than the deductee, credit for tax deducted at source shall be given to the other person in cases where—

- (a) the income of the deductee is included in the total income of another person under the provisions of section 60, section 61, section 64, section 93 or section 94;

(Contd. from p. 1.194)

“37B. Returns regarding tax deducted at source on computer media under sub-section (2) of section 206.—(1) Where a person responsible for deducting the tax under Chapter XVII-B desires to file any return or statement referred to in rule 37 or rule 37A on a computer media, he shall deliver or cause to be delivered to the Assessing Officer referred to in rule 36A such return or statement on a computer media within the time specified under rule 37 or rule 37A, as the case may be.

(2) The return or statement filed on a computer media must contain all the information required under rule 37 or rule 37A, as the case may be.

(3) The computer media must conform to the following specifications :

- (a) CD ROM of 650 MB capacity;*
(b) 4mm 2 GB/4 GB (90M/120M) DAT Cartridge; or
(c) 3.5" 1.44 MB floppy diskette.

(4) While filing the return or statement on a computer media, the person responsible for deducting the tax shall ensure that :

- (i) the return or statement is accompanied with Form No. 27A furnishing the information specified therein;*
(ii) in no case, more than one return or statement is included on one unit of computer media. However, a single return or statement may spawn multiple units of the same computer media. If more than one unit of computer media is used in the case of a particular type of return or statement, then each computer media will be serially numbered;
(iii) if the data relating to a return or statement is copied using data compression or backup software utility, the corresponding software utility or procedure for its decompression or restoration shall also be furnished along with the computer media return or statement;
(iv) the return or statement is accompanied with a certificate regarding clean and virus free data.”

72. See Electronic Filing of Returns of Tax Deducted at Source Scheme, 2003.

73. Inserted by the IT (Sixth Amdt.) Rules, 2009, w.e.f. 1-4-2009.

- (b) the income of a deductee being an association of persons or a trust is assessable in the hands of members of the association of persons, or in the hands of trustees, as the case may be;
- (c) the income from an asset held in the name of a deductee, being a partner of a firm or a karta of a Hindu undivided family, is assessable as the income of the firm, or Hindu undivided family, as the case may be;
- (d) the income from a property, deposit, security, unit or share held in the name of a deductee is owned jointly by the deductee and other persons and the income is assessable in their hands in the same proportion as their ownership of the asset :

Provided that the deductee files a declaration with the deductor and the deductor reports the tax deduction in the name of the other person in the information relating to deduction of tax referred to in sub-rule (1).

(ii) The declaration filed by the deductee under clause (i) shall contain the name, address, permanent account number of the person to whom credit is to be given, payment or credit in relation to which credit is to be given and reasons for giving credit to such person.

(iii) The deductor shall issue the certificate for deduction of tax at source in the name of the person in whose name credit is shown in the information relating to deduction of tax referred to in sub-rule (1) and shall keep the declaration in his safe custody.

(3) (i) Credit for tax deducted at source and paid to the Central Government, shall be given for the assessment year for which such income is assessable.

(ii) Where tax has been deducted at source and paid to the Central Government and the income is assessable over a number of years, credit for tax deducted at source shall be allowed across those years in the same proportion in which the income is assessable to tax.

(4) Credit for tax deducted at source and paid to the account of the Central Government shall be granted on the basis of—

- (i) the information relating to deduction of tax furnished by the deductor to the income-tax authority or the person authorised by such authority; and
- (ii) the information in the return of income in respect of the claim for the credit,

subject to verification in accordance with the risk management strategy formulated by the Board from time to time.]

⁷⁴**[Furnishing of information under sub-section (6) of section 195.**

37BB. (1) The information under sub-section (6) of section 195 shall be furnished by the person responsible for making the payment to a non-resident, not being a company, or to a foreign company, after obtaining a certificate from an accountant as defined in the *Explanation* to section 288 of the Income-tax Act, 1961.

(2) The information to be furnished under sub-section (6) of section 195 shall be in Form No. 15CA and shall be verified in the manner indicated therein and the certificate from an accountant referred to in sub-rule (1) shall be obtained in Form No. 15CB.

74. Inserted by the IT (Seventh Amdt.) Rules, 2009, w.e.f. 1-7-2009. See also Circular No. 4/2009, dated 29-6-2009 & Circular No. 9/2009, dated 30-11-2009. For details, see Taxmann's Master Guide to Income-tax Rules.

(3) The information in Form No. 15CA shall be furnished electronically to the website designated by the Income-tax Department and thereafter signed printout of the said form shall be submitted prior to remitting the payment.

(4) The Director General of Income-tax (Systems) shall specify the procedures, formats and standards for ensuring secure capture, transmission of data and shall also be responsible for the day-to-day administration in relation to furnishing the information in the manner specified.]

⁷⁵[**PART VIA**

⁷⁶**COLLECTION OF TAX AT SOURCE**

⁷⁷[**Declaration by a buyer for no collection of tax at source under section 206C(1A).**

37C. (1) A declaration under sub-section (1A) of section 206C to the effect that any of the goods referred to in the Table in sub-section (1) of that section are to be utilised for the purposes of manufacturing, processing or producing articles or things and not for trading purposes shall be in Form No. 27C and shall be verified in the manner indicated therein.

(2) The declaration referred to in sub-rule (1) shall be furnished in duplicate to the person responsible for collecting tax.

(3) The person referred to in sub-rule (2) shall deliver or cause to be delivered to the Chief Commissioner or Commissioner, one copy of the declaration referred to in sub-rule (1) on or before the seventh day of the month next following the month in which the declaration is furnished to him.

Explanation.—For the purposes of sub-rule (3), the Chief Commissioner or Commissioner means the Chief Commissioner or Commissioner to whom the Assessing Officer, having jurisdiction to assess the person referred to in sub-rule (2), is subordinate.

75. Inserted by the IT (Fourth Amdt.) Rules, 1988, w.e.f. 1-6-1988.

76. State Government falls under the category of 'seller' and is liable to collect tax at source on mining and quarry leases - *Govt. of Madhya Pradesh v. Tax Recovery Officer* [2008] 171 Taxman 466 (MP). Section 206C will not apply to an individual whose annual total sales, gross receipts or turnover from any business or profession carried on by him does not exceed Rs. 40 lakhs or Rs. 10 lakhs as the case may be - *Madan Mohan Gupta v. Union of India* [1993] 204 ITR 384 (Pat.). Where liquor licence was in partner's name but liquor business was carried on by the firm in which he is partner, the firm would nevertheless be regarded as 'seller' - *Bhagwan Singh v. Union of India* [1994] 76 Taxman 423 (Pat.). Liquor licensees are covered under section 206C only at the stage of their placing orders with manufacturer or supplier and not at the stage of obtaining licence - *Union of India v. Om Prakash S.S. & Company* [2001] 248 ITR 105 (SC). No tax is required to be collected on the licence fee paid by L-14A licensees - *Naresh Kumar & Co. v. Union of India* [2000] 243 ITR 760 (Punj. & Har.)/*Chander Bhan & Co. v. Union of India* [2000] 112 Taxman 517 (Punj. & Har.)/*Ashok Kumar v. Union of India* [2001] 252 ITR 200 (Punj. & Har.). Tax is to be collected only on the cost price paid by vendors of country liquor to the wholesalers, and not on the excise duty paid to government - *Ramjee Prasad Sahu v. Union of India* 1993 Tax LR 593/*Bahrain Prasad Choudhary v. Union of India* [1978] 229 ITR 363 (Pat.)/*Fairdeal Trading Co. v. Union of India* [1993] 70 Taxman 121 (Punj. & Har.). Seller is not liable to collect tax on the excise duty element in cases where buyers had directly remitted the excise duty on country liquor into government account - *ITO v. Shri Bhogavati Sah Sakhar Karkhana Ltd.* [2006] 101 ITD 302 (Pune - Trib.). L-13 licensees could be treated as 'buyer' even after deletion of section 44AC with effect from 1-4-1993 and insertion of *Explanation* in section 206C - *Saini & Co. v. Union of India* [2000] 113 Taxman 55 (HP)(FB) (earlier contrary rulings are overruled). Arrack manufacturer selling arrack to

(Contd. on p. 1.198)

⁷⁸[Time and mode of payment to Government account of tax collected at source under section 206C.

37CA. (1) All sums collected in accordance with the provisions of sub-section (1) or sub-section (1C) of section 206C by an office of the Government shall be paid to the credit of the Central Government—

- (a) on the same day where the tax is so paid without production of an income-tax challan; and
- (b) on or before seven days from the end of the month in which the collection is made, where tax is paid accompanied by an income-tax challan.

(2) All sums collected in accordance with the provisions of sub-section (1) or sub-section (1C) of section 206C by collectors other than an office of the Government

(Contd. from p. 1.197)

contractors/buyers who were allotted in government auctions is liable to collect tax at source - *Mysore Sugar Co. Ltd. v. Dy. CIT* [2006] 154 Taxman 447 (Kar.) / *Excise Commissioner v. Mysore Sales International Ltd.* [2006] 286 ITR 136 (Kar.) / *Mysore Sales International Ltd. v. Dy. CIT* [2003] 185 CTR (Kar.) 417. Tax collection at the time of sale is intended to be applied only in respect of forest produce and not with reference to agricultural produce. Therefore, the assessing authorities must first give a finding as to whether an item is categorisable as forest produce before taking the view that the seller is liable to collect tax - *A.P. Forest Development Corporation Ltd. v. Asstt. CIT* [2005] 272 ITR 245 (AP). Where the buyer is a member of a scheduled tribe and he is residing in any of the areas/States specified in section 10(26) of the Act, no tax is collectible on payments made to him, irrespective of the place of payment and so long as the source of income is within the specified areas/States - *Sing Killing v. ITO* [2002] 255 ITR 444 (Gauhati). Certain activities carried out by buyer of tendu leaves did not amount to processing - *Abdul Sattar v. Union of India* [1996] 135 CTR (MP) 352 / *Natwarlal v. Union of India* [1998] 233 ITR 490 (MP) / *North Koel Tendu Leaves and Mahulam Leaves v. Union of India* [1997] 228 ITR 630 (Pat.). For details, see Taxmann's Master Guide to Income-tax Rules.

77. Substituted by the IT (Twenty-second Amtd.) Rules, 2003, w.e.f. 30-9-2003. Prior to substitution, rules 37C, as inserted by the IT (Fourth Amtd.) Rules, 1988, w.e.f. 1-6-1988, read as under :

"37C. Certificate for no collection of tax at source under section 206C(1).—(1) The certificate to be given by the Assessing Officer to the effect that any of the goods referred to in the Table in sub-section (1) of section 206C are to be utilised for the purposes of manufacturing, processing or producing articles or things and not for trading purposes shall be in Form No. 27C.

(2) The certificate given under sub-rule (1) shall be valid for such period (not exceeding one year from the date of certificate) as the Assessing Officer may specify therein, unless it is cancelled by him at any time before the expiry of the specified period.

(3) An application for a fresh certificate may be made, if required, after the expiry of the period of validity of the earlier certificate.

(4) The certificate shall be valid only for the person named therein."

78. Substituted by the IT (Sixth Amtd.) Rules, 2010, w.r.e.f. **1-4-2010** (as corrected by Notification No. SO 1736(E), dated 19-7-2010). Prior to its substitution, rule 37CA as amended by the IT (First Amtd.) Rules, 2010, w.r.e.f. **1-4-2009**, IT (Eighth Amtd.) Rules, 2009 (not enforced), IT (Twenty-second Amtd.) Rules, 2003, w.e.f. 30-9-2003 and IT (Sixteenth Amtd.) Rules, 2004, w.e.f. 30-11-2004, read as under :

"37CA. Time and mode of payment to Government account of tax collected at source under section 206C.—(1) All sums collected in accordance with the provisions of sub-section (1) or sub-section (1C) of section 206C shall be paid to the credit of the Central Government within one week from the last day of the month in which the collection is made.

(2) The person responsible for making collection under sub-section (1) or sub-section (1C) of section 206C shall pay the amount of tax so collected to the credit of the Central Government by remitting it within the time prescribed in sub-rule (1) into any branch of the Reserve Bank of India or of the State Bank of India or of any authorized bank accompanied by an income-tax challan:

Provided that where the collection is made by or on behalf of the Government, the amount shall be credited within the time and in the manner aforesaid without the production of a challan."

shall be paid to the credit of the Central Government within one week from the last day of the month in which the collection is made.

(3) In the case of an office of the Government, where tax has been paid to the credit of the Central Government without the production of a challan, the Pay and Accounts Officer or the Treasury Officer or the Cheque Drawing and Disbursing Officer or any other person by whatever name called to whom the collector reports the tax so collected and who is responsible for crediting such sum to the credit of the Central Government, shall—

- (a) submit a statement in Form No. 24G within ten days from the end of the month to the agency authorised by the Director General of Income-tax (Systems) in respect of tax collected by the collectors and reported to him for that month; and*
- (b) intimate the number (hereinafter referred to as the Book Identification Number) generated by the agency to each of the collectors in respect of whom the sum collected has been credited.*

(4) For the purpose of sub-rule (3), the Director General of Income-tax (Systems) shall specify the procedures, formats and standards for ensuring secure capture and transmission of data, and shall also be responsible for the day-to-day administration in relation to furnishing the information in the manner so specified.

(5) (i) Where tax has been deposited accompanied by an income-tax challan, the tax collected under sub-section (1) or sub-section (1C) of section 206C shall be deposited to the credit of the Central Government by remitting it within the time specified in clause (b) of sub-rule (1) or in sub-rule (2) into any branch of the Reserve Bank of India or of the State Bank of India or of any authorised bank.

(ii) Where tax is to be deposited in accordance with clause (i), by persons referred to in sub-rule (1) of rule 125, the amount collected shall be electronically remitted into the Reserve Bank of India or the State Bank of India or any authorised bank accompanied by an electronic income-tax challan.

(6) For the purpose of this rule, the amount shall be construed as electronically remitted to the Reserve Bank of India or to the State Bank of India or to any authorised bank, if the amount is remitted by way of—

- (a) internet banking facility of the Reserve Bank of India or of the State Bank of India or of any authorised bank; or*
- (b) debit card.*

(7) Where tax is collected before the 1st day of April, 2010, the provisions of this rule shall apply as they stood immediately before their substitution by the Income-tax (Sixth Amendment) Rules, 2010.]

⁷⁹**[Certificate of tax collected at source under section 206C(5).**

37D. *(1) The certificate of collection of tax at source under sub-section (5) of section 206C to be furnished by the collector shall be in Form 27D.*

(2) The certificate referred to in sub-rule (1) shall specify:—

- (a) valid permanent account number (PAN) of the collectee;*

79. Substituted by the IT (Sixth Amdt.) Rules, 2010, w.r.e.f. **1-4-2010** (as corrected by Notification No. SO 1736(E), dated 19-7-2010). Prior to its substitution, rule 37D as amended by the IT (First Amdt.) Rules, 2010, w.r.e.f. **1-4-2009**, IT (Eighth Amdt.) Rules, 2009 (not enforced), IT (Twenty-second Amdt.) Rules, 2003, w.e.f. 30-9-2003, IT (Fourth Amdt.) Rules, 1988, w.e.f. 1-6-1988 and IT (Sixteenth Amdt.) Rules, 2004, w.e.f. 30-11-2004, read as under :

- (b) *valid tax deduction and collection account number (TAN) of the collector;*
- (c) (i) *book identification number or numbers where deposit of tax collected is without production of challan in case of an office of the Government;*
 (ii) *challan identification number or numbers in case of payment through bank;*
- (d) *receipt number of the relevant quarterly statement of tax collected at source which is furnished in accordance with the provisions of rule 31AA.*

(3) *The certificate in the Form No. 27D referred to in sub-rule (1) shall be furnished to the collectee within fifteen days from the due date for furnishing the statement of tax collected at source specified under sub-rule (2) of rule 31AA.*

(4) *The collector may issue a duplicate certificate in Form No. 27D if the collectee has lost the original certificate so issued and makes a request for issuance of a duplicate certificate and such duplicate certificate is certified as duplicate by the collector.*

(5) *Where a certificate is to be furnished for tax collected before the 1st day of April, 2010, it shall be furnished in the Form in accordance with the provisions of the rules as they stood immediately before their substitution by the Income-tax (Sixth Amendment) Rules, 2010.]*

⁸⁰**[Prescribed returns regarding tax collected at source under section 206C(5A).**

37E. Every person collecting tax in accordance with the provisions of section 206C shall, in respect of a financial year, deliver or cause to be delivered to the

(Contd. from p. 1.199)

"37D. *Certificate for collection of tax at source under section 206C(5).*—(1) The certificate of collection of tax at source under sub-section (5) of section 206C to be furnished by any person collecting tax at source under sub-section (1) or sub-section (1C) of that section shall be in Form No. 27D.

(2) The certificate referred to in sub-rule (1) shall be furnished within a period of one month from the end of the month during which the amount is debited to the account of the buyer or licensee or lessee or payment is received from the buyer or licensee or lessee, as the case may be:

Provided that where more than one certificate is required to be furnished to a buyer or licensee or lessee for tax collected at source in respect of the period ending on the 30th September and the 31st March in each financial year, the person collecting the tax, may on request from such buyer or licensee or lessee, issue within one month from the end of such period, a consolidated certificate in Form No. 27D for tax collected during whole of such period.

(3) Where in a case, the certificate for tax collected at source issued under this rule is lost, the person collecting tax at source may issue a duplicate certificate of collection of tax at source on a plain paper giving necessary details as contained in Form No. 27D.

(4) The Assessing Officer before giving credit for the tax collected at source on the basis of duplicate certificate referred to in sub-rule (3), shall get the payment certified from the Assessing Officer designated in this behalf by the Chief Commissioner or Commissioner and shall also obtain an Indemnity Bond from the assessee."

80. Substituted by the IT (Eleventh Amtd.) Rules, 2005, w.e.f. 30-3-2005. Prior to its substitution, rule 37E, as inserted by the IT (Third Amtd.) Rules, 1990, w.e.f. 19-2-1990 and amended by the IT (Fourth Amtd.) Rules, 1997, w.e.f. 19-3-1997, IT (Twenty-second Amtd.) Rules, 2003, w.e.f. 30-9-2003 and IT (Thirteenth Amtd.) Rules, 2003, w.e.f. 31-7-2003, read as under :

"37E. *Prescribed returns regarding tax collected at source under section 206C(5A).*—Every person collecting tax in accordance with the provisions of section 206C shall, in respect of the period ending on 30th September and 31st March in each financial year, deliver or cause to be delivered to the income-tax authority referred to in rule 37F, the return for collection of tax in Form No. 27E within one month from the end of the period for which the return is required to be filed."

⁸¹[Director General of Income-tax (Systems) or the person or agency authorised by the Director General of Income-tax (Systems)] referred to in rule 37F, the return for collection of tax in Form No. 27E by the end of June following the financial year.]

⁸²**Returns regarding tax collected at source on computer media under sub-section (5B) of section 206C.**

37EA. (1) Where a person responsible for collecting tax under Chapter XVII-BB is required to file any return referred to in rule 37E on computer media, such person shall deliver or cause to be delivered such return in accordance with such scheme as may be specified by the Board in this behalf within the time specified under rule 37E.

(2) The return filed on the computer media shall contain all the information required under rule 37E.

(3) The return filed on the computer media shall be accompanied by Form No. 27B furnishing the information specified therein.]

Prescribed authority for purposes of section 206C(5A).

37F. ⁸³[The return referred to in rule 37E shall be furnished to the Director General of Income-tax (Systems) or the person or agency authorised by the Director General of Income-tax (Systems)⁸⁴.]

81. Substituted for "income-tax authority" by the IT (Nineteenth Amtd.) Rules, 2005, w.e.f. 30-6-2005.

82. Substituted by the IT (Ninth Amtd.) Rules, 2005, w.e.f. 30-3-2005. Prior to its substitution, rule 37EA, as inserted by the IT (Twenty-fifth Amtd.) Rules, 1999, w.e.f. 2-7-1999, read as under :

"37EA. Returns regarding tax collected at source on computer media under sub-section (5B) of section 206C.—(1) Where a person responsible for collecting the tax under Chapter XVII-BB of the Act desires to file any return of the nature referred to in rule 37E on a computer media, he shall deliver or cause to be delivered to the Income-tax Officer referred to in rule 37F such return on a computer media within the time specified under rule 37E.

(2) The return on a computer media shall be in the Form No. 27EA or Form No. 27EB or 27EC or 27ED, as the case may be, and contain all the information, details and particulars specified in such Forms.

(3) The computer media shall conform to the following specifications, namely :—

- (a) CD ROM of 650 MB capacity; or*
- (b) 4mm 2 GB/4 GB (90M/120M) DAT Cartridge; or*
- (c) 3.5" 1.44 MB floppy diskette.*

(4) While filing the return on a computer media, the person responsible for collecting the tax shall ensure that :—

- (i) such return is accompanied with Form No. 27B and verified in the manner indicated therein;*
- (ii) only one return is included on one unit of computer media. However, a single return may spawn multiple units of the same computer media. If more than one unit of computer media is used in the case of a particular type of return, then each computer media will be serially numbered;*
- (iii) in a case where the data relating to a return is copied using data compression or backup software utility, the corresponding software utility or procedure for its decompression or restoration shall also be furnished alongwith the computer media return;*
- (iv) the return is accompanied with a certificate regarding clean and virus free data."*

83. Substituted by the IT (Nineteenth Amtd.) Rules, 2005, w.e.f. 30-6-2005. Prior to its substitution, rule 37F, as amended by the IT (Third Amtd.) Rules, 1990, w.e.f. 19-2-1990, read as under :

"37F. Income-tax authority for purposes of section 206C(5A).—The return referred to in rule 37E shall be furnished to :—

- (i) the Income-tax Officer so designated by the Chief Commissioner or Commissioner of Income-tax within whose area of jurisdiction the office of the person responsible for collecting tax under Chapter XVII-BB is situated ; or*

(Contd. on p. 1.202)

⁸⁵[Application for certificate for collection of tax at lower rates under sub-section (9) of section 206C.

37G. An application by the buyer or licensee or lessee for a certificate under sub-section (9) of section 206C shall be made in Form No. 13.]

Certificate for collection of tax at lower rates from buyer under sub-section (9) of section 206C.

37H. (1) Where the Assessing Officer is satisfied that the total income of the buyer ⁸⁶[or licensee or lessee] justifies the collection of tax at any lower rate than the relevant rate specified in sub-section (1) ⁸⁷[or sub-section (1C)] of section 206C, he shall, on an application made by the buyer ⁸⁶[or licensee or lessee] under rule 37G, give to him a certificate ⁸⁸[***] for collection of tax at such lower rate than the relevant rate specified in sub-section (1) ⁸⁷[or sub-section (1C)] of that section.

(2) The certificate given under sub-rule (1) shall be valid for the assessment year specified in that certificate, unless it is cancelled by the Assessing Officer at any time before the expiry of the specified period.

(3) An application for a fresh certificate may be made, if required, after the expiry of the period of validity of the earlier certificate given under sub-rule (1).

(4) The certificate shall be valid only for the person named therein.

(5) The certificate shall be issued direct to the person responsible for collecting the tax under advice to the buyer who made an application for issue of such certificate.]

⁸⁹[Credit for tax collected at source for the purposes of sub-section (4) of section 206C.

37-I. (1) Credit for tax collected at source and paid to the Central Government in accordance with provisions of section 206C of the Act, shall be given to the person from whom the tax has been collected, on the basis of the information relating to collection of tax furnished by the person responsible for collection of tax at source (hereinafter referred to as the collector) to the income-tax authority or the person authorised by such authority.

(2) (i) Where tax has been collected at source and paid to the Central Government, credit for such tax shall be given for the assessment year for which the income is assessable to tax.

(ii) Where tax has been collected at source and paid to the Central Government and the lease or license is relatable to more than one year, credit for tax collected at

(Contd. from p. 1.201)

(ii) in any other case, to the Income-tax Officer within whose area of jurisdiction the office of the person responsible for collecting tax under Chapter XVII-BB is situated.”

84. Person authorised is NSDL.

85. Substituted by the IT (Sixteenth Amdt.) Rules, 2004, w.e.f. 30-11-2004. Prior to its substitution, rule 37G, as amended by the IT (Twenty-third Amdt.) Rules, 1999, w.e.f. 29-6-1999 and the IT (Twenty-fourth Amdt.) Rules, 2003, w.e.f. 1-10-2003, read as under :

“37G. *Application for certificate for collection of tax at lower rates under sub-section (9) of section 206C.*—An application by a buyer for a certificate under sub-section (9) of section 206C shall be made in Form No. 13.”

86. Inserted by the IT (Sixteenth Amdt.) Rules, 2004, w.e.f. 30-11-2004.

87. Inserted, *ibid.* Text of Amendment Rules wrongly mentions ‘*substitution*’ of words “or sub-section (1C)” for “sub-section (1)”, instead of ‘*insertion*’ of words “or sub-section (1C)” after words “sub-section (1)”.

88. Words “in Form No. 27G” omitted by the IT (Twenty-fourth Amdt.) Rules, 2003, w.e.f. 1-10-2003.

89. Inserted by the IT (Sixth Amdt.) Rules, 2009, w.e.f. 1-4-2009.

source shall be allowed across those years to which the lease or license relates in the same proportion.

(3) Credit for tax collected at source and paid to the account of the Central Government shall be granted on the basis of—

- (i) the information relating to collection of tax furnished by the collector to the income-tax authority or the person authorised by such authority; and
- (ii) the information in the return of income in respect of the claim for the credit,

subject to verification in accordance with the risk management strategy formulated by the Board from time to time.]

PART VII

PAYMENT OF ADVANCE TAX

Notice of demand.

38. Notwithstanding anything contained in rule 15, the notice of demand under section 156 to be served upon the assessee in pursuance of an order under section 210 shall be in Form No. 28.

Statement of advance tax.

38A. ⁹⁰[Omitted by the IT (Tenth Amdt.) Rules, 1989, w.e.f. 13-9-1989.]

Estimate of advance tax.

⁹¹**39.** The intimation which an assessee has to send to the Assessing Officer under sub-section (5) of section 210 shall be in Form No. 28A.]

⁹²**Waiver of interest.**

40. The ⁹³[Assessing Officer] may reduce or waive the interest payable under section 215 or section 217 in the cases and under the circumstances mentioned below, namely :—

- ⁹⁴(1) When the relevant assessment is completed more than one year after the submission of the return, the delay in assessment not being attributable to the assessee.
- (2) Where a person is under section 163 treated as an agent of another person and is assessed upon the latter's income.
- (3) Where the assessee has income from an unregistered firm assessed under the provisions of clause (b) of section 183.
- (4) Where the previous year is the financial year or any year ending about the close of the financial year and large profits are made after the 1st

90. Inserted by the IT (Fourth Amdt.) Rules, 1978, w.e.f. 1-6-1978 and amended by the IT (Fifth Amdt.) Rules, 1989.

91. Substituted by the IT (Tenth Amdt.) Rules, 1989, w.e.f. 13-9-1989. Earlier rule 39 was amended by the IT (Fourth Amdt.) Rules, 1978, w.e.f. 1-6-1978 and IT (Fifth Amdt.) Rules, 1989, w.e.f. 1-4-1988.

92. See sections 215(4) and 217(2).

93. Substituted for "Income-tax Officer" by the IT (Fifth Amdt.) Rules, 1989, w.e.f. 1-4-1988.

94. After first arriving at a decision as to whether and if so to what extent the delay in the completion of the assessment beyond the first year is attributable to the assessee, waiver should be given from the end of the first year to the period, if any, from where the delay is attributable to the assessee, and then the waiver should extend upto the date of completion of the assessment—Circular No. 492, dated 21-7-1987.

March (or the 15th March in cases where the proviso to section 211 applies), in circumstances which could not be foreseen.

(5) Any case in which the ⁹⁵[Deputy] Commissioner considers that the circumstances are such that a reduction or waiver of the interest payable under section 215 or section 217 is justified.

⁹⁶[(6) Nothing contained in this rule shall apply in respect of any assessment for the assessment year commencing on the first day of April, 1989, or any subsequent assessment year.]

PART VIIA

TAX CREDIT

Claim for credit.

⁹⁷**40A.** [Omitted by the IT (Fifth Amdt.) Rules, 1989, w.e.f. 18-5-1989. Earlier, it was inserted by the IT (Second Amdt.) Rules, 1968.]

⁹⁸**PART VIIB**

MINIMUM ALTERNATE TAX*

Special provision for payment of tax by certain companies.

40B. The report of an accountant which is required to be furnished by the assessee along with the return of income, under sub-section (4) of section 115JB shall be in Form No. 29B.]

⁹⁹**PART VIIC**

FRINGE BENEFIT TAX

Valuation of specified security or sweat equity share being a share in the company.

40C. (1) For the purposes of clause (ba) of sub-section (1) of section 115WC, the fair market value of any specified security or sweat equity share, being an equity share in a company, on the date on which the option vests with the employee, shall be determined in accordance with the provisions of sub-rule (2) or sub-rule (3).

(2) In a case where, on the date of the vesting of the option, the share in the company is listed on a recognized stock exchange, the fair market value shall be the average of the opening price and closing price of the share on that date on the said stock exchange :

Provided that where, on the date of vesting of the option, the share is listed on more than one recognized stock exchanges, the fair market value shall be the average of

95. Substituted for "Inspecting Assistant" by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988.

96. Inserted by the IT (Tenth Amdt.) Rules, 1989, w.e.f. 13-9-1989.

97. Prior to its omission, rule 40A, read as under :

"(1) A claim for credit under section 54A shall be made in Form No. 29A and shall contain the particulars specified therein.

(2) The claim shall be signed, in the case of an individual, by the individual himself, and in the case of a company, by the principal officer thereof.

(3) The claim under sub-rule (1) shall be made to the Income-tax Officer exercising jurisdiction under the Act in the case of the claimant."

98. Inserted by the IT (Nineteenth Amdt.) Rules, 2000, w.e.f. 27-9-2000.

99. Inserted by the IT (Twelfth Amdt.) Rules, 2007, w.e.f. 1-4-2008. See also Circular No. 9/2007, dated 20-12-2007. For details, see Taxmann's Master Guide to Income-tax Rules.

*Heading is provided by Editors.

opening price and closing price of the share on the recognised stock exchange which records the highest volume of trading in the share :

Provided further that where, on the date of vesting of the option, there is no trading in the share on any recognized stock exchange, the fair market value shall be—

- (a) the closing price of the share on any recognised stock exchange on a date closest to the date of vesting of the option and immediately preceding such date; or
- (b) the closing price of the share on a recognised stock exchange, which records the highest volume of trading in such share, if the closing price, as on the date closest to the date of vesting of the option and immediately preceding such date, is recorded on more than one recognized stock exchange.

(3) In a case where, on the date of vesting of the option, the share in the company is not listed on a recognized stock exchange, the fair market value shall be such value of the share in the company as determined by a merchant banker on the specified date.

(4) For the purpose of this rule,—

- (a) “closing price” of a share on a recognised stock exchange on a date shall be the price of the last settlement on such date on such stock exchange:
Provided that where the stock exchange quotes both “buy” and “sell” prices, the closing price shall be the “sell” price of the last settlement;
- (b) “merchant banker” means category I merchant banker registered with Securities and Exchange Board of India established under section 3 of the Securities and Exchange Board of India Act, 1992 (15 of 1992);
- (c) “opening price” of a share on a recognised stock exchange on a date shall be the price of the first settlement on such date on such stock exchange:
Provided that where the stock exchange quotes both “buy” and “sell” prices, the opening price shall be the “sell” price of the first settlement;
- (d) “recognised stock exchange” shall have the same meaning assigned to it in clause (f) of section 2 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956);
- (e) “specified date” means,—
 - (i) the date of vesting of the option; or
 - (ii) any date earlier than the date of the vesting of the option, not being a date which is more than 180 days earlier than the date of the vesting;
- (f) ¹[***]]

²[**Valuation of specified security not being an equity share in the company.**

40D. For the purposes of clause (ba) of sub-section (1) of section 115WC, the fair market value of any specified security, not being an equity share in a company, on the date on which the option vests with the employee, shall be such value as determined by a merchant banker on the specified date.

1. Omitted by the IT (Second Amtd.) Rules, 2008, w.e.f. 1-4-2008. Prior to its omission, clause (f) read as under :

‘(f) “equity share” shall have the meaning assigned to it in section 85 of the Companies Act, 1956 (1 of 1956).’

2. Inserted, *ibid.*

Explanation.—For the purposes of this rule, “merchant banker” and “specified date” shall have the meanings assigned to them in clause (b) and clause (e) respectively of sub-rule (4) of rule 40C.]

³[**Prescribed conditions for the purposes of sub-clause (iii) of clause (B) of sub-section (2) of section 115WB.**

40E. For the purposes of sub-clause (iii) of clause (B) of sub-section (2) of section 115WB, the non-transferable pre-paid electronic meal card (hereinafter called the “card”) shall fulfil the following conditions, namely:—

- (i) The card shall be granted by the employer to its employees under a scheme framed by the employer specifying therein the circumstances under which the meal card can be used by the employee.
- (ii) The card under clause (i) shall be issued by the issuing bank.
- (iii) An employee shall not be issued more than one card.
- (iv) The card shall bear the name of the employer along with the name, photograph and signature of the employee to whom the card is issued.
- (v) The card shall be used only by the employee to whom the card is issued.
- (vi) The card shall be used by the employee only for the purpose of purchasing ready to eat food or non-alcoholic beverage from a member establishment.
- (vii) The aggregate amount of ready to eat food or non-alcoholic beverage purchased during a day by an employee shall not exceed one hundred rupees.
- (viii) The details of each transaction of purchases made by the employee against the card shall be maintained by the employer and the member establishment in such manner and for such period as is required under the Act for any other similar transaction.

Explanation.—For the purposes of this rule,—

- (i) “banking company” shall have the same meaning as assigned to in clause (viii) of sub-section (1) of section 36 of the Act;
- (ii) “issuing bank” means a banking company—
 - (a) which issues the card to the employees of an employer in pursuance to an agreement entered into with the employer; and
 - (b) which has entered into a contract with the member establishment authorizing him to allow purchases against the card issued by it in accordance with the conditions stipulated in sub-clause (iii) of clause (B) of sub-section (2) of section 115WB and this rule; and
- (iii) “member establishment” shall mean a restaurant, hotel, canteen or an outlet which sells ready to eat food or non-alcoholic beverage, but shall not include a restaurant, hotel, canteen or an outlet selling alcoholic beverage.]

***Part VIIC not to apply after a certain date**

⁴[**40F.** Nothing contained in this Part, shall apply, in respect of any assessment for the assessment year commencing on the 1st day of April, 2010 or any subsequent assessment year.]

3. Inserted by the IT (First Amdt.) Rules, 2009, w.e.f. 1-4-2009.

4. Inserted by the IT (Thirteenth Amdt.) Rules, 2009, w.r.e.f. 1-4-2009.

*Heading is provided by Editors.

PART VIII**REFUNDS****⁵Refund claim.**

41. (1) A claim for refund under Chapter XIX shall be made in Form No. 30.

(2) The claim under sub-rule (1) shall be accompanied by a return in the form prescribed under section 139 unless the claimant has already made such a return to the ⁶[Assessing Officer].

(3) Where any part of the total income of a person making a claim for refund of tax consists of dividends or any other income from which tax has been deducted under the provisions of sections 192 to 194 ⁷[, section 194A and section 195], the claim shall be accompanied by the certificates prescribed under section 203.

(4) The claim under sub-rule (1) may be presented by the claimant in person or through a duly authorised agent or may be sent by post.

5. See sections 239(1) and 295(2)(k). The words 'properly chargeable' in section 237 cannot be read as 'properly or legally chargeable'. When an assessee pays self-assessment tax under section 140A, such taxes are, on the own admission of the assessee, amounts properly chargeable under the Act, and they cannot lose that character simply because an assessment is not made. Omission to make an assessment or annulment of the assessment at the appellate stage, etc., would not make the pre-paid taxes unauthorised collections, so as to contend that such taxes should be fully refunded. The assessee can get a refund only if, as provided in section 237, he satisfies the Assessing Officer that there was any excess - *Saraya Sugar Mills Ltd. v. ITO*[1997] 226 ITR 475 (All.). The effect of the failure or inability of the Assessing Officer to make a fresh assessment after the earlier assessment made is set aside or nullified in appropriate proceedings is that it amounts to deemed acceptance of the return filed by the assessee. The Assessing Officer must accept the income disclosed, and refund any tax paid in excess of the liability incurred by the assessee on the basis of the income disclosed - *CIT v. Shelly Products* [2003] 261 ITR 367 (SC). The assessee is not entitled to refund of advance tax paid by him for an assessment year for which no regular assessment was made and it was allowed to become time-barred by the Assessing Officer - *Kamal Kishore Gupta v. ITO*[2004] 141 Taxman 170 (Punj. & Har.). A simple letter claiming refund cannot be treated as a proper application - *Sardar Bahadur Sardar Indra Singh Trust v. CIT*[1954] 26 ITR 670 (Cal.). Claim for refund cannot be rejected on the super-technical ground that the application is not in the prescribed form - *Deep Chand Jain v. ITO* [1984] 145 Taxman 676 (Punj. & Har.)/*Kamal Kishore Gupta v. ITO (supra)*. If refund is legitimately due to applicant, mere delay in filing claim should not defeat claim for refund; though while considering application for condonation of delay in filing refund claim, authority must satisfy itself that applicant has a *prima facie* correct and genuine refund claim, yet it does not mean that authority should examine merits of refund claim closely and come to a conclusion that applicant's claim is bound to succeed - *Sitaldas K. Motwani v. Director General of Income-tax (International Taxation)* [2010] 187 Taxman 44 (Bom.). Where assessee applied to CBDT for condonation of delay in filing refund application without explaining the reasons for delay in filing returns, CBDT was justified in rejecting the application on the ground that the returns were filed by the assessee much beyond time deliberately, only to escape scrutiny assessment - *Deep Narayan Gupta v. CBDT* [2004] 135 Taxman 499 (Pat.). CBDT is fully competent to admit an application for refund even after the expiry of period prescribed in section 239 - *Jaswant Singh Bambha v. CBDT*[2005] 142 Taxman 528 (Punj. & Har.)(FB). Where, even after passing of the order for refund of tax along with interest, there was inordinate delay in payment of interest to assessee, the assessee was entitled to be paid interest on the interest amount - *Sandvik Asia Ltd. v. CIT* [2006] 150 Taxman 591 (SC). For details and orders of condonation of delay in filing refund claims, refer to Taxmann's Master Guide to Income-tax Rules.

6. Substituted for "Income-tax Officer" by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988.

7. Inserted by the IT (Fifth Amdt.) Rules, 1967.

PART IX**TAX CLEARANCE CERTIFICATES**

⁸⁹**Prescribed authority for tax clearance certificates.**

42. (1) For the purposes of sub-section (1) of section 230, the prescribed authority shall be the Chief Commissioner of Income-tax or the Director-General of Income-tax, as the case may be, who has jurisdiction over the persons not domiciled in India or any other income-tax authority authorized by such Chief Commissioner or Director-General in this behalf.

(2) For the purposes of sub-section (1A) of section 230, the prescribed authority shall be the Chief Commissioner of Income-tax having jurisdiction over the persons domiciled in India or any other income-tax authority authorized by him in this behalf :

Provided that in the case of a person domiciled in India referred to in the first proviso to sub-section (1A) of section 230, the application shall be made to the Assessing Officer who has jurisdiction to assess such person.]

¹⁰**Forms and certificates for the purpose of sub-sections (1) and (1A) of section 230**¹¹.

43. (1) An undertaking to be furnished to the prescribed authority by a person not domiciled in India from the persons referred to in clause (i) or clause (ii), as the case may be, shall be in Form No. 30A.

8. Substituted by the IT (Twenty-eighth Amdt.) Rules, 2003, w.e.f. 21-11-2003. Prior to its substitution, rule 42, as amended by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988, read as under :

"42. *Application for tax clearance certificate.*—(1) An application under section 230 for a tax clearance certificate or an exemption certificate may be made in Form No. 31 to any competent authority.

(2) Where the applicant is a person domiciled in India or is a person who has been assessed by an Assessing Officer anywhere in India, the application shall be accompanied by an authorisation in Form No. 32 to be obtained by the applicant from the Assessing Officer who has jurisdiction to assess him."

9. See section 295(2)(l). Writ petition seeking direction to ITO to issue tax clearance certificate is not maintainable - *Kalinga Air Lines (P.) Ltd. v. ITO* [1972] 85 ITR 443 (Cal.). If no tax is legally due from the applicant, certificate cannot be refused - *ITO v. Mrs. A. Satler* [1973] 92 ITR 576 (SC). For details, see Taxmann's Master Guide to Income-tax Rules.

10. Substituted by the IT (Twenty-eighth Amdt.) Rules, 2003, w.e.f. 21-11-2003. Prior to its substitution, it read as under :

"43. *Form of certificate.*—(1) A tax clearance certificate issued under sub-section (1) of section 230 shall be in Form No. 33 and shall be valid for the period mentioned therein.

(2) An exemption certificate issued under the proviso to sub-section (1) of section 230 shall be in Form No. 34 and shall be valid for the period mentioned therein."

11. See section 295(2)(l). See Departmental Instruction No. 1/2004, dated 5-2-2004 [Circumstances in which Tax Clearance Certificate, as required under first proviso to section 230(1A), may be required to be obtained by persons domiciled in India.] See also Circular No. 2/2004, dated 10-2-2004 [Abolition of the requirement of obtaining Income Tax Clearance Certificate (ITCC) by persons entering into commercial contracts]. For details, see Taxmann's Master Guide to Income-tax Rules.

(2) A no-objection certificate to be issued by the prescribed authority under sub-section (1) of section 230 shall be in Form No. 30B and shall be valid for the period mentioned therein.

(3) The information to be furnished by a person domiciled in India shall be in Form No. 30C.

(4) An application under the first proviso to sub-section (1A) of section 230 may be made in Form No. 31.

(5) A tax clearance certificate issued under the first proviso to sub-section (1A) of section 230 shall be in Form No. 33 and shall be valid for the period mentioned therein.

(6) A copy of the undertaking referred to in sub-rule (1) and the no-objection certificate referred to in sub-rule (2) shall be forwarded to the Chief Commissioner or Director General, as the case may be, having jurisdiction over the persons referred to in clause (i) or clause (ii) of sub-section (1) of section 230.]

¹²**Production of certificate.**

44. Any person leaving India shall, at the request of any Customs Officer, produce to him for examination the tax clearance certificate or the exemption certificate, as the case may be.

¹³**[Application for tax clearance certificate for registration of documents in certain cases.**

44A. An application under sub-section (2) of section 230A¹⁴ for a certificate under sub-section (1) of that section shall be made in duplicate in Form No. 34A to the ¹⁵[Assessing Officer].]

¹⁶**[Grant of tax clearance certificate or refusal.**

44B. Within 60 days of the receipt of the application referred to in rule 44A, the ¹⁵[Assessing Officer] shall—

12. See section 295(2)(l). See Departmental Instruction No. 1/2004, dated 5-2-2004 [Circumstances in which Tax Clearance Certificate, as required under first proviso to section 230(1A), may be required to be obtained by persons domiciled in India.] See also Circular No. 2/2004, dated 10-2-2004 [Abolition of the requirement of obtaining Income Tax Clearance Certificate (ITCC) by persons entering into commercial contracts]. For details, see Taxmann's Master Guide to Income-tax Rules.

13. Inserted by the IT (Amdt.) Rules, 1965.

14. Omitted w.e.f. 1-6-2001.

15. Substituted for "Income-tax Officer" by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988.

16. Inserted by the IT (Amdt.) Rules, 1965.

- (i) if he is satisfied that the applicant has either paid or made satisfactory provision for payment of all existing liabilities under the enactments specified in clause (a) of sub-section (1) of section 230A or that the registration of the document referred to in the application will not prejudicially affect the recovery of any such liability, grant the certificate and forward the same to the registering officer concerned ; or
- (ii) if he is not so satisfied, pass an order in writing refusing to grant the certificate, recording his reasons therefor.]

¹⁷[**PART IX-A**

SETTLEMENT OF CASES

Form of application for settlement of case ¹⁸[and intimation to the Assessing Officer].

44C. (1) An application for settlement of a case under sub-section (1) of section 245C shall be made in quintuplicate in Form No. 34B ¹⁹[and shall be verified in the manner indicated therein.]

²⁰[(2) The application referred to in sub-rule (1), the verification appended thereto, the Annexure to the said application and the statements and documents accompanying the Annexure shall be signed by the person specified in sub-rule (2) of rule 45.]

(3) Every application in connection with the settlement of a case shall be accompanied by a fee of five hundred rupees.]

²¹[(4) The assessee shall, on the date on which he makes the application to the Settlement Commission, intimate in Form No. 34BA to the Assessing Officer of having made such application to the Commission.]

²²[**Disclosure of information in the application for settlement of cases.**

44CA. (1) The Settlement Commission shall, while calling for a report from the Commissioner under sub-section (2B) of section 245D, forward a copy of the application in Form No. 34B (other than the Annexure and the statements and other

17. Inserted by the IT (Third Amdt.) Rules, 1976, w.e.f. 1-4-1976.

18. Inserted by the IT (Ninth Amdt.) Rules, 2007, w.e.f. 7-8-2007.

19. Inserted by the IT (Third Amdt.) Rules, 1984, w.e.f. 1-10-1984.

20. Substituted, *ibid*.

21. Inserted by the IT (Ninth Amdt.) Rules, 2007, w.e.f. 7-8-2007.

22. Substituted, *ibid*. Prior to its substitution, section 44CA, as inserted by the IT (Third Amdt.) Rules, 1984, w.e.f. 1-10-1984, read as under :

"44CA. Disclosure of information in the application for settlement of cases.—(1) The Settlement Commission may, while calling for a report from the Commissioner under sub-section (1) of section 245D, forward a copy of the application filed in Form No. 34B (other than the Annexure and the statements and other documents accompanying such Annexure).

(2) Where an order under sub-section (1) of section 245D allowing the application to be proceeded with is made by the Settlement Commission, the information contained in the Annexure to the application in Form No. 34B and in the statements and other documents accompanying such Annexure shall be sent to the Commissioner along with a copy of the said order."

documents accompanying such Annexure) along with a copy of the order under sub-section (1) of section 245D or, as the case may be, an intimation in respect of an application deemed to have been allowed to be proceeded with under sub-section (2A) of that section 245D.

(2) Where an application has not been declared invalid under sub-section (2C) of section 245D or an application has been allowed to be further proceeded with under sub-section (2D) of section 245D, the information contained in the Annexure to the application in Form No. 34B and in the statements and other documents accompanying such Annexure shall be sent to the Commissioner.]

Fee for furnishing copy of report.

44D. (1) The following scale of fees shall be levied by the Settlement Commission for furnishing under section 245G a copy of any report or part of any report made by any income-tax authority to the Settlement Commission :—

For the first two hundred words or less	... 80 paise
For every additional hundred words or fraction thereof	... 40 paise.

(2) The fee referred to in sub-rule (1) shall be recovered in advance in cash.

²³***PART IX-B***

ADVANCE RULINGS

Form of application for obtaining an advance ruling.

44E. ²⁴[(1) An application for obtaining an advance ruling under sub-section (1) of section 245Q shall be made in quadruplicate,—

- (a) in Form No. 34C in respect of a non-resident applicant;

23. Inserted by the IT (Nineteenth Amdt.) Rules, 1993, w.e.f. 2-11-1993.

Resident Indian who is party to contract with applicant cannot be made a party to the application - *Steffen, Robertson & Kirsten Consulting Engineers & Scientists v. CIT*[1997] 95 Taxman 598 (AAR - New Delhi). Rulings will be given only on questions relating to Income-tax Act, and not to other Acts - *Advance Ruling No. P-12, In re*[1997] 228 ITR 61/94 Taxman 157 (AAR - New Delhi). While computing period of stay in India, day of arrival and day of departure should both be included - *Advance Ruling P. No. 7 of 1995, In re*[1997] 223 ITR 462 (AAR - New Delhi).

24. Substituted by the IT (Tenth Amdt.) Rules, 1999, w.e.f. 28-5-1999. Prior to its substitution, sub-rule (1) read as under :

"(1) An application for obtaining an advance ruling under sub-section (1) of section 245Q shall be made in quadruplicate in Form No. 34C and shall be verified in the manner indicated therein."

- ²⁵[(b) in Form No. 34D in respect of a resident applicant seeking advance ruling in relation to a transaction undertaken or proposed to be undertaken by him with a non-resident; and
- (c) in Form No. 34E in respect of a resident falling within any such class or category of person as notified²⁶ by the Central Government in exercise of the powers conferred by sub-clause (iii) of clause (b) of section 245N,]

and shall be verified in the manner indicated therein.]

(2) The application referred to in sub-rule (1), the verification appended thereto, the annexures to the said application and the statements and documents accompanying it, shall be signed,—

- (a) in the case of an individual,—
- (i) by the individual himself ;
- (ii) where, for any unavoidable reason, it is not possible for the individual to sign the application, by any person duly authorised by him in this behalf :
- Provided** that in a case referred to in sub-clause (ii), the person signing the application holds a valid power of attorney from the individual to do so, which shall be attached to the application ;
- (b) in the case of a Hindu undivided family,—
- (i) by the karta thereof, and
- (ii) where, for any unavoidable reason, it is not possible for the karta to sign the application, by any other adult member of such family ;
- (c) in the case of a company,—
- (i) by the Managing Director thereof, or where for any unavoidable reason such Managing Director is not able to sign and verify the application, or where there is no Managing Director, by any Director thereof ;
- (ii) where, for any unavoidable reason, it is not possible for the Managing Director or the Director to sign the application, by any person duly authorised by the company in this behalf :
- Provided** that in the case referred to in sub-clause (ii), the person signing the application holds a valid power of attorney from the company to do so, which shall be attached to the application ;

25. Substituted by the IT (Thirteenth Amdt.) Rules, 2000, w.e.f. 3-8-2000. Prior to their substitution, clauses (b) and (c) read as under :

- “(b) in Form No. 34D in respect of a person seeking advance ruling in relation to the tax liability of a non-resident arising out of transaction undertaken or proposed to be undertaken by him with a non-resident; and
- (c) in Form No. 34E in respect of a resident falling within any such class or category of person as notified by Central Government in exercise of powers conferred by sub-clause (ii) of clause (b) of section 245N,”

26. Public sector company has been notified *vide* SO 725(E), dated 3-8-2000.

- (d) in the case of a firm, by the managing partner thereof, or where for any unavoidable reason such managing partner is not able to sign and verify the application or where there is no managing partner as such, by any partner thereof, not being a minor ;
- (e) in the case of an association of persons, by any member of the association or the principal officer thereof ; and
- (f) in the case of any other person, by that person or by some person competent to act on his behalf.

Certification of copies of the advance rulings pronounced by the Authority.

44F. The copy of the advance ruling pronounced by the Authority to be sent to the applicant and to the Commissioner having jurisdiction over his case, shall be certified to be true copy thereof by the Commissioner or Deputy Commissioner, Authority for Advance Rulings, as the case may be.]

²⁷[**PART IX-C**

MUTUAL AGREEMENT PROCEDURE

Application for giving effect to the terms of any agreement under clause (h) of subsection (2) of section 295.

44G. Where a resident assessee is aggrieved by any action of the tax authorities of any country outside India for the reason that, according to him, such action is not in accordance with the terms of agreement with such other country outside India, he may make an application to the Competent Authority in India seeking to invoke the mutual agreement procedure, if any, provided therein, in terms of Form No. 34F.

Action by the Competent Authority of India and procedure for giving effect to the decision under the agreement.

44H. (1) Where a reference has been received from the competent authority of a country outside India under any agreement with that country with regard to any action taken by any income-tax authority in India, the Competent Authority in India shall call for and examine the relevant records with a view to give his response to the competent authority of the country outside India.

(2) The Competent Authority in India shall endeavour to arrive at a resolution of the case in accordance with such agreement.

(3) The resolution arrived at under mutual agreement procedure, in consultation with the competent authority of the country outside India, shall be communicated, wherever necessary, to the Chief Commissioner or the Director-General of Income-tax, as the case may be, in writing.

(4) The effect to the resolution arrived at under mutual agreement procedure shall be given by the Assessing Officer within ninety days of receipt of the same by the Chief Commissioner or the Director-General of Income-tax, if the assessee,—

27. Inserted by the IT (Second Amdt.) Rules, 2003, w.e.f. 6-2-2003 [as corrected by Notification No. 39/2003 (F. No. 480/3/2002-FTD), dated 26-2-2003]. See also Instruction No. 3 of 2004, dated 19-3-2004. [India-UK and Instruction No. 10/2007, dated 23-10-2007 (India-US)].

- (i) gives his acceptance to the resolution taken under mutual agreement procedure; and
- (ii) withdraws his appeal, if any, pending on the issue which was the subject matter for adjudication under mutual agreement procedure.

(5) The amount of tax, interest or penalty already determined shall be adjusted after incorporating the decision taken under mutual agreement procedure in the manner provided under the Income-tax Act, 1961 (43 of 1961), or the rules made thereunder to the extent that they are not contrary to the resolution arrived at.

Explanation.—For the purposes of rules 44G and 44H, “Competent Authority of India” shall mean an officer authorised by the Central Government for the purposes of discharging the functions as such.]

PART X

APPEALS

²⁸Form of appeal to ²⁹[***] ³⁰[³¹[***] Commissioner (Appeals)].

45. ³²[(1) An appeal to ³³[***] the Commissioner (Appeals) shall be made in Form No. 35.]

³⁴[(2) The form of appeal prescribed by sub-rule (1), the grounds of appeal and the form of verification appended thereto relating to an assessee shall be signed and verified by the person who is authorised to sign the return of income under section 140 of the Income-tax Act, 1961, as applicable to the assessee.]

28. See sections 249(1) and 295(2)(m). Appeal by HUF should be signed by karta, and not by any other member - *Addl. CIT v. K. Padmalochan Sahu* [1974] 95 ITR 113 (Ori.). Demand notice need not be enclosed with memo of appeal - *Addl. CIT v. Prem Kumar Rastogi* [1978] 115 ITR 503 (All.). Senior Vice President of a company is not competent to sign and verify the form of appeal. Though appeal itself could be dismissed *in limine*, the company could be allowed an opportunity to cure this defect in the form of appeal - *Gold Stone Exports Ltd. v. Asstt. CIT* [2007] 104 ITD 15 (Hyd. - Trib.). Where the first appeal memo was not signed by the appellant, but later appellant filed appeal memo duly signed, and the first appellate authority exercised his discretionary jurisdiction and condoned the delay in filing the appeal, it could not be said that the discretionary power exercised by that authority called for any interference by the Tribunal - *Rajendrakumar Maneklal Sheth (HUF) v. CIT* [1995] 213 ITR 715 (Guj.).

29. Words “Deputy Commissioner (Appeals)” omitted by the IT (Twentieth Amdt.) Rules, 1998, w.e.f. 22-10-1998. Earlier “Deputy Commissioner (Appeals)” was substituted for “Appellate Assistant Commissioner” by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988.

30. Inserted by the IT (Seventh Amdt.) Rules, 1978, w.e.f. 10-7-1978.

31. Word “and” omitted by the IT (Twentieth Amdt.) Rules, 1998, w.e.f. 22-10-1998. Earlier “and” was inserted by the IT (Seventh Amdt.) Rules, 1978, w.e.f. 10-7-1978.

32. Substituted by the IT (Seventh Amdt.) Rules, 1978, w.e.f. 10-7-1978. Earlier, sub-rule (1) was substituted by the IT (Second Amdt.) Rules, 1973, w.e.f. 1-4-1973.

33. Words “the Deputy Commissioner (Appeals) or, as the case may be,” omitted by the IT (Twentieth Amdt.) Rules, 1998, w.e.f. 22-10-1998. Earlier “Deputy Commissioner (Appeals)” was substituted for “Appellate Assistant Commissioner” by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988.

34. Substituted by the IT (Fifth Amdt.) Rules, 1989, w.e.f. 18-5-1989. Prior to its substitution, sub-rule (2) was amended by the IT (Third Amdt.) Rules, 1976, w.e.f. 1-4-1976.

³⁵**Mode of service.**

46. (1) The intimation of any such order as is referred to in clause (c) of sub-section (2) of section 249 shall be served in the same manner as is laid down in section 282 for the service of a notice or requisition.

(2) Any other order, not being a notice or requisition, which is to be sent or communicated to, or served on, any person shall be sent, communicated or served either by post or as if it were a summons issued by a Court under the Code of Civil Procedure, 1908 (5 of 1908).

³⁶^[37]**Production of additional evidence before the** ³⁸**[Deputy Commissioner (Appeals)]** ³⁹**[and Commissioner (Appeals)].**

46A. (1) The appellant shall not be entitled to produce before the ³⁸[Deputy Commissioner (Appeals)] ³⁹[or, as the case may be, the Commissioner (Appeals)], any evidence, whether oral or documentary, other than the evidence produced by him during the course of proceedings before the ⁴⁰[Assessing Officer], except in the following circumstances, namely :—

35. See section 295(2)(m).

36. Inserted by the IT (Second Amdt.) Rules, 1973, w.e.f. 1-4-1973.

Rule 46A is not *ultra vires* section 250 or 251 - *Smt. Mohinder Kaur v. Central Government* [1976] 104 ITR 120 (All.). Where Assessing Officer made additions due to non-production of confirmation letters from the creditors by the assessee, and the Commissioner (Appeals) rejected to admit the said letters produced before him as additional evidence, the Tribunal would be justified in holding that the Commissioner ought not to have rejected the additional evidence but should have directed the Assessing Officer to consider the confirmation letters - *CIT v. K. Ravindranathan Nair* [2003] 133 Taxman 743 (Ker.). Where the ITO gave his comments on certain affidavits produced by appellant as additional evidence, but did not ask for the production of the deponents for cross-examination, rule 46A could not be said to have been violated - *CIT v. Subhash Chander Agarwal* [1988] 172 ITR 166 (All.). Where no opportunity was given by the Assessing Officer to the assessee to lead evidence before making certain additions, action of the first appellate authority to allow the assessee to produce additional evidence and to delete the additions after proper examination was justified - *CIT v. Babulal Jain* [1989] 176 ITR 411 (MP). Where Commissioner (Appeals) was acting on being invited by the assessee, there must be some explanation to show that the failure to adduce evidence earlier but sought to be adduced in first appeal was not wilful and not unreasonable - *Rai Kumar Srimal v. CIT* [1976] 102 ITR 525 (Cal.). Where repeated opportunities were given to the assessee by the Assessing Officer to produce evidence to prove the genuineness of certain disputed cash credits but the assessee did not produce any evidence, it could not be said that the Commissioner (Appeals) exercised his discretion arbitrarily or capriciously while refusing to admit fresh evidence at the appellate stage - *Ram Prasad Sharma v. CIT* [1979] 119 ITR 867 (All.). In the matter of production of additional evidence, the assessee has to show (i) that the Assessing Officer had refused to admit the evidence, (ii) alternatively, that he was prevented by sufficient cause from producing the evidence before the Assessing Officer, (iii) that the evidence was relevant to the grounds of appeal, and (iv) that the Assessing Officer did not afford him sufficient opportunity in regard thereto - *C. Umni Krishnan v. CIT* [1997] 140 CTR (Ker.) 552. Rule 46A does not deal with powers of AAC to make further enquiry or to direct ITO to make further enquiry - *Smt. Prabhavati S. Shah v. CIT* [1998] 231 ITR 1 (Bom.). See also Instruction No. 20/2003, dated 23-12-2003 (Appellate order should be passed within 15 days of last hearing). For details, see Taxmann's Master Guide to Income-tax Rules.

37. See section 295(2)(mm).

38. Substituted for "Appellate Assistant Commissioner" by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988.

39. Inserted by the IT (Seventh Amdt.) Rules, 1978, w.e.f. 10-7-1978.

40. Substituted for "Income-tax Officer" by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988.

- (a) where the ⁴¹[Assessing Officer] has refused to admit evidence which ought to have been admitted ; or
- (b) where the appellant was prevented by sufficient cause from producing the evidence which he was called upon to produce by the ⁴¹[Assessing Officer] ; or
- (c) where the appellant was prevented by sufficient cause from producing before the ⁴¹[Assessing Officer] any evidence which is relevant to any ground of appeal ; or
- (d) where the ⁴¹[Assessing Officer] has made the order appealed against without giving sufficient opportunity to the appellant to adduce evidence relevant to any ground of appeal.

(2) No evidence shall be admitted under sub-rule (1) unless the ⁴²[Deputy Commissioner (Appeals)] ⁴³[or, as the case may be, the Commissioner (Appeals)] records in writing the reasons for its admission.

⁴⁴(3) The ⁴⁵[Deputy Commissioner (Appeals)] ⁴⁶[or, as the case may be, the Commissioner (Appeals)] shall not take into account any evidence produced under sub-rule (1) unless the ⁴⁷[Assessing Officer] has been allowed a reasonable opportunity—

- (a) to examine the evidence or document or to cross-examine the witness produced by the appellant, or
- (b) to produce any evidence or document or any witness in rebuttal of the additional evidence produced by the appellant.

(4) Nothing contained in this rule shall affect the power of the ⁴⁸[Deputy Commissioner (Appeals)] ⁴⁹[or, as the case may be, the Commissioner (Appeals)] to direct the production of any document, or the examination of any witness, to enable him to dispose of the appeal, or for any other substantial cause including the enhancement of the assessment or penalty (whether on his own motion or on the request of the ⁵⁰[Assessing Officer]) under clause (a) of sub-section (1) of section 251 or the imposition of penalty under section 271.]

41. Substituted for "Income-tax Officer" by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988.

42. Substituted for "Appellate Assistant Commissioner", *ibid*.

43. Inserted by the IT (Seventh Amdt.) Rules, 1978, w.e.f. 10-7-1978.

44. The mere fact that notice of hearing of the appeal was given to the Assessing Officer would not meet the requirements of this sub-rule. When a prayer for additional evidence was made, it was an independent and substantive application seeking a new right. Notice of such application was necessary to the Assessing Officer and he ought to have been afforded both an opportunity to oppose it and to test the additional evidence or counter the effect thereof or produce evidence in rebuttal—*CIT v. Valimohmed Ahmedbhai* [1982] 134 ITR 214 (Guj.). A finding by the Tribunal that an opportunity was given by the AAC to the ITO and thus the provisions of rule 46A were not violated, is a finding of fact, from which no question of law would arise—*CIT v. Subhash Chander Agarwal* [1988] 172 ITR 166 (All.). For details, see Taxmann's Master Guide to Income-tax Rules.

45. Substituted for "Appellate Assistant Commissioner" by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988.

46. Inserted by the IT (Seventh Amdt.) Rules, 1978, w.e.f. 10-7-1978.

47. Substituted for "Income-tax Officer" by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988.

48. Substituted for "Appellate Assistant Commissioner", *ibid*.

49. Inserted by the IT (Seventh Amdt.) Rules, 1978, w.e.f. 10-7-1978.

50. Substituted for "Income-tax Officer" by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988.

⁵¹Form of appeal and memorandum of cross-objections to Appellate Tribunal.

47. (1) An appeal under sub-section (1) or sub-section (2) of section 253 to the Appellate Tribunal shall be made in Form No. 36 ⁵²], and where the appeal is made by the assessee, the form of appeal, the grounds of appeal and the form of verification appended thereto shall be signed by the person specified in sub-rule (2) of rule 45].

(2) A memorandum of cross-objections under sub-section (4) of section 253 to the Appellate Tribunal shall be made in Form No. 36A ⁵²], and where the memorandum of cross-objection is made by the assessee, the form of memorandum of cross-objections, the grounds of cross-objections and the form of verification appended thereto shall be signed by the person specified in sub-rule (2) of rule 45].

Form of application for reference to High Court⁵³.

48. An application under sub-section (1) of section 256 requiring the Appellate Tribunal to refer to the High Court any question of law shall be made in Form No. 37.

⁵⁴**[PART XA****ANNUITY DEPOSITS****Notice of demand.**

48A. [Omitted by the IT (Fifth Amdt.) Rules, 1989, w.e.f. 18-5-1989.]

Estimate of advance deposit.

48B. [Omitted by the IT (Fifth Amdt.) Rules, 1989, w.e.f. 18-5-1989.]

Estimate of annuity deposit for the assessment year 1964-65.

48C. [Omitted by the IT (Fifth Amdt.) Rules, 1989, w.e.f. 18-5-1989. Earlier, it was amended by the IT (Amdt.) Rules, 1967.]

⁵⁵**[PART XB****ACQUISITION OF IMMOVABLE PROPERTIES
UNDER CHAPTER XXA⁵⁶****Jurisdiction of competent authorities.**

48D. Where any immovable property is situate within the local limits of the jurisdiction of two or more competent authorities, the competent authority

51. See section 295(2)(m). See also Instruction No. 17/2003, dated 23-12-2003 (Priority hearing of appeal) and Instruction No. 12/2004, dated 18-10-2004 (Stay petitions before ITAT). For details, see Taxmann's Master Guide to Income-tax Rules.

52. Inserted by the IT (Second Amdt.) Rules, 1966.

53. See Instruction No. 9979, dated 27-3-2000, as amended by Instruction No. 6/2003, dated 17-7-2003, Instruction No. 19/2003, dated 23-12-2003 and No. 5/2004, dated 22-5-2004 (Measures for reducing litigation).

54. Inserted by the IT (Fourth Amdt.) Rules, 1964.

55. Inserted by the IT (Fourth Amdt.) Rules, 1972, w.e.f. 15-11-1972.

56. Chapter XXA is inoperative, w.e.f. 30-9-1986.

within whose jurisdiction the office of the registering officer who registered the instrument of transfer in respect of such property is situate shall be the competent authority to perform the functions of competent authority under Chapter XXA in relation to such property.

⁵⁷[**Statement to be registered with the competent authority under section 269AB.**

48DD. (1) The statement required to be registered with the competent authority under sub-section (2) of section 269AB shall be in Form No. 37EE and shall be signed and verified in the manner indicated therein by each of the parties to the transaction referred to in sub-section (1) of that section or by any of the parties to such transaction acting on behalf of himself and on behalf of the other parties.

(2) The statement in Form No. 37EE shall be made in duplicate and shall be furnished to the competent authority within a period of thirty days from the date on which the transaction referred to in sub-section (1) of section 269AB takes place :

Provided that in relation to any such transaction which has taken place between the 1st day of July, 1982 and the date of the publication of the Income-tax (Eighth Amendment) Rules, 1982 in the Official Gazette, the provisions of this sub-rule shall have effect as if for the words “thirty days”, the words “sixty days” had been substituted.

(3) Where the competent authority considers that the statement in Form No. 37EE furnished under sub-section (2) of section 269AB is defective, he may intimate the defect to the parties or, as the case may be, the party furnishing such statement and give them an opportunity to rectify the defect within a period of fifteen days from the date of such intimation or within such further period which, on an application made in this behalf, the competent authority may, in his discretion allow ; and if the defect is not rectified within the period of fifteen days or, as the case may be, the further period so allowed, then, notwithstanding anything contained in any other provision of this rule, the statement in Form No. 37EE shall be treated as an invalid statement and the provisions of the Act shall apply as if the parties to the transaction had not complied with the provision of section 269AB.

(4) The competent authority shall, within a period of sixty days from the date of the receipt by him of the statement in Form No. 37EE or, as the case may be, from the date of the rectification of the defects under sub-rule (3), make an order registering the statement under section 269AB ; and if no such order is made by the competent authority within the said period of sixty days, the statement shall be deemed to have been registered under section 269AB as on the date on which the said period of sixty days expires.]

Manner of publication of notice for acquisition.

48E. The substance of the notice under sub-section (1) of section 269D in respect of any immovable property shall be made known in the locality in which such property is situate by proclamation in the language of the District by beat of drum or other customary mode.

57. Inserted by the IT (Eighth Amdt.) Rules, 1982, w.e.f. 31-7-1982.

Form of appeal to the Appellate Tribunal.

⁵⁸**48F.** An appeal under section 269G to the Appellate Tribunal shall be in Form No. 37F and the form of appeal, the grounds of appeal and the form of verification appended thereto shall be signed by the person specified in sub-rule (2) of rule 45.

Statement to be furnished in respect of transfers of immovable property.

48G. The statement required to be furnished to the registering officer under sub-section (1) of section 269P shall be in Form No. 37G, and shall be signed and verified by the transferee in the manner indicated therein.

Form of fortnightly return to be forwarded by registering officer to the competent authority.

48H. The return to be forwarded by the registering officer to the competent authority under clause (b) of sub-section (2) of section 269P shall be in Form No. 37H and be verified in the manner indicated therein.]

⁵⁹**[PART XC****PURCHASE OF IMMOVABLE PROPERTIES
UNDER CHAPTER XXC⁶⁰****Rate of interest for determination of discounted value of consideration.**

48-I. The rate of interest for determination of the discounted value of consideration under sub-clause (1) or sub-clause (2) of clause (b) of section 269UA shall be eight per cent per annum.

Jurisdiction of appropriate authority.

48J. Where any immovable property is situate within the local limits of the jurisdiction of two or more appropriate authorities, the appropriate authority within whose jurisdiction the office of the registering officer appointed under the Registration Act, 1908 (16 of 1908), who is entitled to register any document of transfer in respect of such property, is situate, shall be the appropriate authority to perform the function of appropriate authority under Chapter XXC in relation to such property.

⁶¹**[Value of immovable property.**

48K. The value of any immovable property for the purposes of sub-section (1) of section 269UC shall be, where the agreement for transfer prescribed under the said sub-section—

58. Appeal must necessarily be accompanied by certified copy of acquisition order and hence time taken to obtain that order must be excluded while computing limitation period—*Bafna Bros. v. CIT* [1988] 174 ITR 733 (AP).

59. Inserted by the IT (Seventh Amdt.) Rules, 1986, w.e.f. 1-10-1986.

60. Chapter XXC is inoperative in relation to transfer of any immovable property effected on or after 1-7-2002.

61. Substituted by the IT (Tenth Amdt.) Rules, 1995, w.e.f. 1-8-1995.

- (a) is entered into, on or before the 31st day of July, 1995, the apparent consideration of that property exceeding 10 lakh rupees;
- (b) is entered into, after 31st day of July, 1995, the apparent consideration of that property as specified in column (3) of the Table below :

Sl. No.	<i>Area within which the appropriate authorities shall perform their function</i>	<i>Value of any immovable property for the purposes of sub-section (1) of section 269UC</i>
(1)	(2)	(3)
1.	The area comprised in Greater Bombay as notified <i>vide</i> SO 480(E), dated 7th August, 1986	The apparent consideration of the property exceeding Rs. 75 lakhs.
2.	The area comprised in the Union territory of Delhi as notified <i>vide</i> SO 480(E), dated 7th August, 1986	The apparent consideration of the property exceeding Rs. 50 lakhs.
3.	The area comprised in Calcutta Metropolitan Area and Madras Metropolitan Planning Area as notified <i>vide</i> SO 480(E), dated 7th August, 1986	The apparent consideration of the property exceeding Rs. 25 lakhs.
4.	The areas comprised in Bangalore Metropolitan Region and the areas declared as Ahmedabad Urban Development Area and the areas comprised in the city of Ahmedabad as notified <i>vide</i> SO 835(E), dated 21st September, 1987	The apparent consideration of the property exceeding Rs. 25 lakhs.
5.	The areas comprised in the city of Pune as notified <i>vide</i> SO 339(E), dated 8th May, 1989	The apparent consideration of the property exceeding Rs. 25 lakhs.
6.	The areas other than those mentioned at Sl. No. 5 above and notified <i>vide</i> SO 339(E), dated 8th May, 1989; SO 53(E), dated 19th January, 1990 and SO 180(E), dated 14th March, 1991 ⁶²	The apparent consideration of the property exceeding Rs. 20 lakhs.]

Statement to be furnished under section 269UC(3).

48L. (1) The statement required to be furnished to the appropriate authority under sub-section (3) of section 269UC shall be in Form No. 37-I and shall be signed and verified in the manner indicated therein by each of the parties to the transfer referred to in sub-section (1) of that section or by any of the parties to such transfer acting on behalf of himself and on behalf of the other parties.

62. For notified areas in stated notifications, *see* Taxmann's Master Guide to Income-tax Rules.

⁶³[(2) The statement in Form No. 37-I shall be furnished, in duplicate, to the appropriate authority—

- (a) before the 30th day of October, 1987, in a case where the agreement for transfer is entered into before the coming into force of Chapter XXC in the areas comprised in the “Bangalore Metropolitan Region”, and “Ahmedabad Urban Development Area” and the areas comprised in the city of Ahmedabad, as referred to in the notification of the Government of India in the Department of Revenue No. SO 835(E), dated 21-9-1987⁶⁴;
- (b) before the expiry of 15 days from the date on which the provisions of Chapter XXC come into force in any areas, other than the areas referred to in clause (a) where the agreement for transfer is entered into before such date; and
- (c) before the expiry of 15 days from the date on which the agreement for transfer is entered into, in cases not covered by clauses (a) and (b).]

PART XI

AUTHORISED REPRESENTATIVES

Definitions.

49. In this Part—

- ⁶⁵(a) “authorised income-tax practitioner” means any authorised representative as defined in clause (v) or clause (vi) or clause (vii) of sub-section (2) of section 288;
- (b) “prescribed authority” means the prescribed authority referred to in rule 52;
- (c) “register” means the register of income-tax practitioners referred to in rule 53.

63. Substituted by the IT (Seventh Amdt.) Rules, 1987.

64. Refer [1987] 168 ITR (St.) 155.

65. An authorised representative can be only an individual, and not a firm or legal body. Two or more individuals qualified to be authorised representatives can file a joint power of attorney or vakalatnama - *Notification No. 161-AD (AT)/70, dated 30-12-1971*. While filing power of attorney in favour of a firm, the constitution of the firm must also be intimated - *Notification No. F. 161-AD(AT)/70, dated 8-5-1973*. Persons not authorised to appear under section 288 may be permitted to produce books of account or documents, or to act as messengers for delivery of letters, etc. - *Circular No. 19-D (XL-62) of 1964, dated 3-7-1964*. Person qualified under 1922 Act but not under 1961 Act cannot appear in proceedings under 1961 Act - *Circular No. 18-D (XL-61), dated 3-7-1964*. Brother-in-law/Father-in-law/part-time accountant of assessee can appear as authorised representative, but not an employee who merely holds a power of attorney - *Letter F.No. 21/4/63-IT, dated 14-6-1963*. Stamp duty is leviable on authorisation to be produced before Assessing Officer to represent an assessee - *Saju K. Abraham v. ITO* [2005] 142 Taxman 345 (Kar.). For details, see Taxmann’s Master Guide to Income-tax Rules.

⁶⁶[Accountancy examinations recognised.

50. The following accountancy examinations are recognised for the purpose of clause (v) of sub-section (2) of section 288, namely :—

- (1) The National Diploma in Commerce awarded by the All-India Council for Technical Education under the Ministry of Education, New Delhi, provided the diploma-holder has taken Advanced Accountancy and Auditing as an elective subject for the Diploma Examination.
- (2) Government Diploma in Company Secretaryship awarded by the Department of Company Affairs, under the Ministry of Industrial Development and Company Affairs, New Delhi.]
- ⁶⁷[(2A) Final Examination of the Institute of Company Secretaries of India, New Delhi.]
- ⁶⁸[(3) The Final Examination of the Institute of Cost and Works Accountants of India constituted under the Cost and Works Accountants Act, 1959 (23 of 1959).]
- ⁶⁹[(4) The Departmental Examinations conducted by or on behalf of the Central Board of Direct Taxes for ⁷⁰[Assessing Officers], Class I or Group 'A', Probationers, or for ⁷⁰[Assessing Officers], Class II or Group 'B', Probationers, or for promotion to the post of ⁷⁰[Assessing Officers], Class II or Group 'B', as the case may be.]
- ⁷¹[(5) The Revenue Audit Examination for Section Officers conducted by the Office of the Comptroller and Auditor General of India.]

Educational qualifications prescribed.

51. The following educational qualifications are prescribed for the purpose of clause (vi) of sub-section (2) of section 288 :—

⁷²A degree in Commerce or Law conferred by any of the following Universities:—

(I) *Indian Universities :*

⁷³Any Indian University incorporated by any law for the time being in force.

66. Substituted by the IT (Second Amdt.) Rules, 1968.

67. Inserted by the IT (Fourth Amdt.) Rules, 1979, w.e.f. 21-7-1979.

68. Inserted by the IT (Second Amdt.) Rules, 1970.

69. Inserted by the IT (Eleventh Amdt.) Rules, 1986, w.e.f. 12-12-1986.

70. Substituted for "Income-tax Officers" by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988.

71. Inserted by the IT (Second Amdt.) Rules, 1991, w.e.f. 11-1-1991.

72. Commercial University Ltd., Delhi, is not a university incorporated by any law, and hence, a degree awarded by that institution cannot permit the holder to appear as authorised representative—*Mohan Lal Gumber v. Secretary, Board of Direct Taxes* [1973] 90 ITR 410 (Punj. & Har.)/*Moti Lal v. Secretary, CBDT* [1978] 113 ITR 461 (Punj. & Har.). No distinction need be made between a degree of Law (Academic) and a degree of Law (Professional)—*Taxation Bar Association v. CIT* [1983] 141 ITR 82 (Punj. & Har.). For details, see Taxmann's Master Guide to Income-tax Rules.

73. Osmania University, Mysore University, Travancore University, University of Rajputana and Jammu & Kashmir University are deemed as falling under this category - Circular No. 2 [C.No. 21(25)-IT/50], dated 23-2-1951.

- (II) *Rangoon University.*
- (III) *English and Welsh Universities :*
The Universities of Birmingham, Bristol, Cambridge, Durham, Leeds, Liverpool, London, Manchester, Oxford, Reading, Sheffield and Wales.
- (IV) *Scottish Universities :*
The Universities of Aberdeen, Edinburgh, Glasgow and St. Andrews.
- (V) *Irish Universities :*
The Universities of Dublin (Trinity College), the Queen's University, Belfast and the National University of Dublin.
- (VI) *Pakistan Universities:*
Any Pakistan University incorporated by any law for the time being in force.

⁷⁴**Prescribed authority for section 288(5)(b).**

52. For the purposes of clause (b) of sub-section (5) of section 288, the "prescribed authority" shall be the ⁷⁵[Chief Commissioner or Commissioner] having jurisdiction over the case in the proceedings connected with which the income-tax practitioner is alleged to be guilty of misconduct.

⁷⁶**Register of income-tax practitioners.**

53. Every ⁷⁵[Chief Commissioner or Commissioner] shall maintain in Form No. 38, a register of authorised income-tax practitioners to whom certificates of registration have been issued by him under rule 55.

⁷⁶**Application for registration.**

54. (1) Any person who wishes to have his name entered as an authorised income-tax practitioner in the register shall apply to the ⁷⁵[Chief Commissioner or Commissioner] within whose area of jurisdiction he has been practising. The application shall be made in Form No. 39 and shall be accompanied by documentary evidence regarding his eligibility for income-tax practice under clause (v) or clause (vi) ⁷⁷[or clause (via)] or clause (vii) of sub-section (2) of section 288.

(2) The applicant shall also furnish such further information as the ⁷⁵[Chief Commissioner or Commissioner] may require in connection with the disposal of the application.

⁷⁶**Certificate of registration.**

55. If the ⁷⁵[Chief Commissioner or Commissioner] is satisfied that the applicant fulfils the requirements of clause (v) or clause (vi) ⁷⁷[or clause (via)] or clause

74. See section 295(2)(g) and (n).

75. Substituted for "Commissioner" by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988.

76. See section 295(2)(n).

77. Inserted by the IT (Fourth Amdt.) Rules, 1979, w.e.f. 21-7-1979.

(vii) of sub-section (2) of section 288 and has been practising before income-tax authorities for not less than one year on the date of the application, the ⁷⁸[Chief Commissioner or Commissioner] shall enter the name of the applicant in the register and issue him a certificate of registration in Form No. 40.

⁷⁹**Cancellation of certificate.**

56. (1) A certificate of registration shall stand cancelled when the name of the holder of the certificate is removed from the register under these rules.

(2) When the name of the holder of the certificate is removed from the register, the ⁷⁸[Chief Commissioner or Commissioner] maintaining the register shall notify the fact of such removal to the authorised income-tax practitioner concerned and also to other ⁸⁰[Chief Commissioners or Commissioners] of Income-tax (who shall notify the fact of the removal to the income-tax authorities subordinate to them) and to the Appellate Tribunal.

⁸¹**Cancellation of certificate obtained by misrepresentation.**

57. (1) If at any time the ⁸²[Chief Commissioner or Commissioner] is satisfied that the certificate of registration was obtained by misrepresentation as to an essential fact, he shall order the removal of the name of the income-tax practitioner from the register.

(2) No order under sub-rule (1) shall be passed unless the authorised income-tax practitioner has been given a reasonable opportunity of being heard in regard to the proposed removal.

⁸¹**Removal of name of authorised income-tax practitioner who is insolvent or on whom penalty has been imposed.**

58. During the period for which a person whose name has been entered in the register is in the circumstances referred to in clause (b) or clause (c) of sub-section (4) of section 288 disqualified to represent an assessee, his name shall be removed from the register and shall be re-entered only after the completion of the aforesaid period.

⁸¹**Prescribed authority to order an inquiry.**

59. No order directing that an authorised income-tax practitioner shall be disqualified to represent an assessee shall be passed under clause (b) of sub-section (5) of section 288 except after an inquiry held as far as may be in the manner hereinafter provided in rules 60 to 65.

78. Substituted for "Commissioner" by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988.

79. See section 295(2)(n).

Where the licence was granted to the petitioner under a mistake of law, the Commissioner can later rectify the mistake by cancelling the licence, even though the petitioner might not have concealed any fact while applying for the licence—*Moti Lal v. Secretary, CBDT* [1978] 113 ITR 461 (Punj. & Har.). For details, see Taxmann's Master Guide to Income-tax Rules.

80. Substituted for "Commissioners" by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988.

81. See section 295(2)(n). No prior opportunity of hearing is contemplated before issuing charge-sheet—*N.K. Mehaet v. CIT* [1994] 76 Taxman 319 (Mad.). For details, see Taxmann's Master Guide to Income-tax Rules.

82. Substituted for "Commissioner" by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988.

⁸³Charge-sheet.

60. Where the prescribed authority on the basis of information in its possession is of the opinion that *prima facie* an authorised income-tax practitioner is guilty of misconduct in connection with any income-tax proceedings, it shall frame definite charges against the income-tax practitioner and shall communicate them in writing to him together with a statement of the allegations in support of the charges. The authorised income-tax practitioner shall be required to submit within such time as may be specified by the prescribed authority a written statement of his defence and also to state whether he desires to be heard in person.

⁸³Inquiry Officer.

61. The prescribed authority shall, unless it proposes to conduct the inquiry itself, appoint an Inquiry Officer, not below the rank of an Assistant Commissioner of Income-tax to conduct the inquiry and shall inform the authorised income-tax practitioner of the appointment of such an Inquiry Officer.

⁸⁴Proceedings before Inquiry Officer.

62. (1) On receipt of the written statement of defence, or if no such statement is received within the time specified, the Inquiry Officer shall inquire into such of the charges as are not admitted.

(2) The Inquiry Officer shall, in the course of the inquiry, consider such documentary evidence and take such oral evidence as may be relevant or material in regard to the charges. The authorised income-tax practitioner shall be entitled to cross-examine witnesses examined in support of the charges and to give evidence in person. If the Inquiry Officer declines to examine any witness on the ground that his evidence is not relevant or material, he shall record his reasons in writing.

(3) At the conclusion of the inquiry, the Inquiry Officer shall prepare a report of the inquiry, recording his findings on each of the charges together with the reasons therefor.

⁸⁴Order of the prescribed authority.

63. (1) The prescribed authority shall consider the report of the Inquiry Officer and record its findings on each charge and, where it does not agree with the findings of the Inquiry Officer, shall record the reasons for its disagreement.

(2) If the prescribed authority is satisfied on the basis of its findings on the Inquiry Officer's report that the authorised income-tax practitioner is guilty of misconduct in connection with any income-tax proceedings, it shall pass an order directing that the authorised income-tax practitioner shall be disqualified to represent an assessee under sub-section (1) of section 288 for such period as it may determine and his name shall be removed from the register for that period.

(3) The prescribed authority shall while communicating its order under sub-rule (2) furnish to the authorised income-tax practitioner a copy of the report of the Inquiry

83. See section 295(2)(n). No prior opportunity of hearing is contemplated before issuing charge-sheet—*N.K. Mehaet v. CIT* [1994] 76 Taxman 319 (Mad.). For details, see Taxmann's Master Guide to Income-tax Rules.

84. See section 295(2)(n).

Officer and a statement of its findings together with the reasons for disagreement, if any, with the findings of the Inquiry Officer.

⁸⁵**Procedure if no Inquiry Officer appointed.**

64. The procedure prescribed in the aforesaid rules shall *mutatis mutandis* apply when the prescribed authority itself conducts the inquiry without appointing an Inquiry Officer.

⁸⁵**Change of Inquiry Officer.**

65. If a change of an Inquiry Officer becomes necessary in the midst of an inquiry, the prescribed authority may appoint any other Inquiry Officer not below the rank of an Assistant Commissioner of Income-tax and the proceedings shall be continued by the succeeding Inquiry Officer from the stage at which they were left by his predecessor.

⁸⁵**Powers of prescribed authority and Inquiry Officer.**

66. For the purposes of any proceedings under rules 59 to 65, the prescribed authority and the Inquiry Officer shall have the same powers as are vested in a Court under the Code of Civil Procedure, 1908 (5 of 1908), when trying a suit in respect of the following matters:—

- (a) discovery and inspection;
- (b) enforcing the attendance of any person including any officer of a banking company and examining him on oath;
- (c) compelling the production of books of account and other documents; and
- (d) issuing commissions.

PART XII

⁸⁶**RECOGNISED PROVIDENT FUNDS**

⁸⁷**[Investment of fund moneys.**

⁸⁸**67.** (1) All moneys contributed to a provident fund (whether by the employer or by the employees) after the 31st day of October, 1974, or transferred after that date from the individual account of an employee in any recognised provident fund maintained by his former employer or accruing after that date by way of interest or otherwise to the fund may be deposited in a Post Office Savings Bank Account in India ⁸⁹[or in a current account or a Savings Bank Account with any scheduled bank]; and to the extent such moneys as are not so deposited (such moneys as are not so deposited being hereafter in this rule referred to as investible moneys) shall be invested in the manner specified in sub-rule (2).

85. See section 295(2)(n).

86. See Part A of the Fourth Schedule.

87. Substituted by the IT (Fourth Amdt.) Rules, 1974, w.e.f. 1-11-1974.

88. Rule 67(1) and (2) apply to recognised provident funds and do not apply to gratuity funds - *Surinder Arora v. Durga Das* [1987] 34 Taxman 339 (Delhi). For details, see Taxmann's Master Guide to Income-tax Rules.

89. Substituted for "or in a current account with any scheduled bank" by the IT (Third Amdt.) Rules, 1986, w.e.f. 1-4-1986.

Explanation : For the purposes of this rule and rules 85 and 101,—

- (i) moneys received after the 31st day of October, 1974, on transfer, maturity or realisation of any security or deposit forming part of a fund or by withdrawal from any account in a bank (including a Post Office Savings Bank Account) shall be deemed to be moneys accruing to the fund after that date;
- (ii) “scheduled bank” means the State Bank of India constituted under the State Bank of India Act, 1955 (23 of 1955), a subsidiary bank⁹⁰ 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),⁹¹[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).

⁹²(2) The manner of investment referred to in sub-rule (1) shall be in accordance with the following Table, namely :—

90. For definition of “subsidiary bank”, see footnote 57 on page 1.78 *ante*.

91. Inserted by the IT (Sixth Amdt.) Rules, 1993, w.e.f. 1-4-1993.

92. Substituted by the IT (Fifth Amdt.) Rules, 2009, w.e.f. 1-4-2009. Prior to its substitution, sub-rule (2), as amended by the IT (Twenty-third Amdt.) Rules, 2005, w.r.e.f. 1-4-2005, IT (Ninth Amdt.) Rules, 1978, IT (Eighth Amdt.) Rules, 1979, IT (Ninth Amdt.) Rules, 1980, IT (Ninth Amdt.) Rules, 1985, IT (Third Amdt.) Rules, 1986, w.e.f. 1-4-1986, IT (Sixth Amdt.) Rules, 1993, w.e.f. 1-4-1993, IT (Thirteenth Amdt.) Rules, 1994, w.r.e.f. 1-4-1994, IT (Twentieth Amdt.) Rules, 1995, w.r.e.f. 1-4-1995, IT (Seventh Amdt.) Rules, 1996, w.r.e.f. 1-10-1996, IT (Seventh Amdt.) Rules, 1997, w.r.e.f. 1-4-1997, IT (Sixth Amdt.) Rules, 1999, w.r.e.f. 1-4-1998, IT (Twenty-fourth Amdt.) Rules, 2000, w.r.e.f. 1-4-1999 and IT (Tenth Amdt.) Rules, 2003, w.r.e.f. 1-4-2003, read as under:

(2) The manner of investment referred to in sub-rule (1) shall be in accordance with the following Table, namely :—

TABLE
INVESTMENT PATTERN

Sl. No.	Investment	Minimum percentage of investible moneys to be invested in items referred to in column (2)
(1)	(2)	(3)
(i)	in Central Government securities as defined in section 2 of the Public Debt Act, 1944 (18 of 1944); and/or units of such Mutual Funds which have been set up as dedicated funds for investment in Government securities and which are regulated by the Securities and Exchange Board of India;	Twenty-five per cent
(ii)	(a) in Government securities as defined in section 2 of the Public Debt Act, 1944 (18 of 1944), created and issued by any State Government, and/or units of such mutual funds which have been set up as dedicated funds for investment in Government securities and which are regulated by the Securities and Exchange Board of India; and/or	Fifteen per cent

(Contd. on p. 1.228)

(Contd. from p. 1.227)

(1)	(2)	(3)
	(b) in any other negotiable securities the principal whereof and interest whereon is fully and unconditionally guaranteed by the Central Government or any State Government except those covered under (iii)(a) below;	
(iii)	(a) in bonds/securities, of a public financial institution or of a public sector company or of a public sector bank, which have an investment grade rating from at least two credit rating agencies; and/or (b) Term Deposit Receipts (TDR) up to three years issued by public sector banks; and/or (c) in Collateral Borrowing and Lending Obligation (CBLO) issued by Clearing Corporation of India Limited and approved by the Reserve Bank of India;	Thirty per cent
(iv)	to be invested in any of the above three categories, as decided by their Trustees	Thirty per cent :

Provided that any moneys received on the maturity of investments made prior to the 1st day of April, 2005, reduced by obligatory outgoings, shall be invested in accordance with the manner of investment specified in this sub-rule :

Provided further that the trustees, subject to their assessment of the risk-return prospects, may, if they so decide, divide the total portfolio referred to in clause (i) and sub-clause (a) of clause (ii) of the said Table into tradable and non-tradable categories and upto ten per cent of the said portfolio at the end of the preceding financial year can be treated as tradable and may be used for active management :

Provided also that the tradable portfolio of Government securities mentioned in the second proviso shall be marked to the market and the mutual funds, which have been set up as dedicated funds for investment in Government securities, shall be valued at Net Asset Value at the end of the financial year :

Provided also that irrespective of the proportion of investments stated in clauses (i) and (ii) of the said Table, exposure of a trust to any individual mutual fund which has been set up as a dedicated fund for investment in Government securities, shall not exceed five per cent of its total portfolio at any point of time :

Provided also that the trustees may invest an amount not exceeding five per cent out of the amount referred to in clause (iii) of the said Table in the shares of any company which has an investment grade debt rating from at least two credit rating agencies registered under sub-section (1A) of section 12 of the Securities and Exchange Board of India Act, 1992 (15 of 1992) :

Provided also that the trustees may invest an amount not exceeding one-third out of the amount referred to in clause (iv) of the said Table in the debt instruments of any company, other than a public sector company, which has an investment grade rating from at least two credit rating agencies registered under sub-section (1A) of section 12 of the Securities and Exchange Board of India Act, 1992 (15 of 1992) and/or in equity linked scheme of mutual funds regulated by Securities and Exchange Board of India :

Provided also that in the event of the rating of any instruments mentioned in this sub-rule for being rated and their rating falling below the investment grade, as certified by at least two credit rating agencies registered under sub-section (1A) of section 12 of the Securities and Exchange Board of India Act, 1992 (15 of 1992), then the option of exit from such instruments can be exercised and the released funds shall be invested in accordance with the manner provided in the Table of this sub-rule :

Provided also that any amount invested after 31st March, 2005, but on or before the date of issue of this notification in accordance with the manner of investment in force in this behalf from the 1st day of April, 1997 to 31st March, 2005, shall be deemed to have been invested in the manner specified in this sub-rule.

Explanation 1.—The manner of investment specified in this sub-rule shall apply to the aggregate amount of investible moneys with the fund in the previous year.

(Contd. on p. 1.229)

TABLE
INVESTMENT PATTERN

Sl. No.	Investment	Maximum percentage amount to be invested in items referred to in column (2)
(1)	(2)	(3)
(i)	(a) in Government securities ⁹³ ; (b) other securities, as defined in section 2(h) of the Securities Contracts (Regulation) Act, 1956, the principal whereof and interest whereon is fully and unconditionally guaranteed by the Central Government, or any State Government, except those covered under (ii)(a) below; and/or (c) units of mutual funds set up as dedicated funds for investment in Government securities and regulated by the Securities and Exchange Board of India	Fifty-five per cent.
(ii)	(a) Debt securities with maturity of not less than three years tenure issued by Bodies Corporate, including banks and public financial institutions; (b) Term Deposit Receipts of not less than one year duration issued by scheduled commercial banks fulfilling all the following criteria: (i) it has made profit continuously for immediately preceding three years; (ii) it is maintaining a minimum Capital to Risk Weighted Assets Ratio of 9 per cent; (iii) it is having net non-performing assets of not more than 2 per cent of the net advances; and (iv) it is having a minimum net worth of not less than rupees 200 crores; and/or (c) Rupee Bonds having an outstanding maturity of at least three years issued by institutions of the International Bank for Reconstruction and Development, International Finance Corporation and the Asian Development Bank	Forty per cent.
(iii)	Money market instruments including units of money market mutual funds	Five per cent.
(iv)	Shares of companies on which derivatives are available in Bombay Stock Exchange or National Stock Exchange or equity linked schemes of mutual funds regulated by the Securities and Exchange Board of India	Fifteen per cent :

Provided that any moneys received on the maturity of investments made prior to the 1st day of April, 2009, reduced by obligatory outgoings, shall be invested in accordance with the manner of investment specified in this sub-rule :

(Contd. from p. 1.228)

Explanation 2.—For the purposes of this sub-rule,—

- (i) the expression “public financial institutions” shall have the meaning assigned to it in section 4A of the Companies Act, 1956 (1 of 1956);
- (ii) the expression “public sector company” shall have the meaning assigned to it in clause (36A) of section 2 of the Income-tax Act; and
- (iii) the expression “public sector bank” shall have the meaning assigned to it in clause (23D) of section 10 of the Income-tax Act.’

93. For definition of term “Government security/securities”, see **Appendix**.

Provided further that the investment pattern specified in this sub-rule may be achieved by the end of the previous year; so however that at no time during the year investment in any category should exceed by more than ten per cent of the limit prescribed :

Provided also that, irrespective of the proportion of investments stated in clause (i) of the said Table, exposure of a trust to any individual mutual fund, under sub-clause (c) of the said clause, which has been set up as a dedicated fund for investment in Government securities, shall not exceed five per cent of its total portfolio at any point of time :

Provided also that the trustees shall invest at least 75 per cent of the amount invested under sub-clause (a) of clause (i) of the said Table in instruments having an investment grade rating from at least one credit rating agency registered under sub-section (1A) of section 12 of the Securities and Exchange Board of India Act, 1992 (15 of 1992) :

Provided also that in the event of the rating of any instruments mentioned in this sub-rule for being rated and their rating falling below the investment grade, as certified by one credit rating agencies registered under sub-section (1A) of section 12 of the Securities and Exchange Board of India Act, 1992 (15 of 1992), then the option of exit from such instruments can be exercised and the released funds shall be invested in accordance with the manner provided in the Table of this sub-rule :

Provided also that the turnover ratio, being the value of securities traded in the year divided by the average value of the portfolio at beginning of the year and the end of the year, should not exceed two.

Explanation 1.—The manner of investment specified in this sub-rule shall apply to the aggregate amount of investible moneys with the fund in the previous year.

Explanation 2.—For the purposes of this sub-rule,—

- (i) the expression “Government securities”⁹⁴ shall have the meaning assigned to it in clause (b) of section 2 of the Securities Contracts (Regulation) Act, 1956;
- (ii) the expression “public financial institutions”⁹⁵ shall have the meaning assigned to it in section 4A of the Companies Act, 1956 (1 of 1956);
- (iii) the expression “public sector company”⁹⁵ shall have the meaning assigned to it in clause (36A) of section 2 of the Income-tax Act;
- (iv) the expression “public sector bank”⁹⁵ shall have the meaning assigned to it in clause (23D) of section 10 of the Income-tax Act; and
- (v) the expression “securities”⁹⁵ shall have the meaning assigned to it in clause (h) of section 2 of the Securities Contracts (Regulation) Act, 1956.]

⁹⁶[**Nomination.**

67A. (1) An employee may be allowed by the trustees of the provident fund to make a nomination conferring on one or more persons the right to receive the amount that may stand to his credit in the provident fund in the event of his death, before that amount becomes payable or, having become payable, has not been paid.

94. For definition of term “Government security/securities”, see **Appendix**.

95. For definitions of “public financial institutions”, “public sector company”, “public sector bank” and “securities”, see **Appendix**.

96. Inserted by the IT (Second Amdt.) Rules, 1971.

For clarification on nomination, see Circular No. 110, dated 13-4-1973. For details, see Taxmann’s Master Guide to Income-tax Rules.

Such a nomination shall be made in Form No. 40A or in a form as near thereto as may be necessary.

(2) If an employee nominates more than one person under sub-rule (1), he shall, in his nomination, specify the amount or share payable to each of the nominees in such manner as to cover the whole of the amount that may stand to his credit in the provident fund.

(3) Where an employee has a family at the time of making a nomination, the nomination shall be in favour of one or more persons belonging to his family. Any nomination made by an employee in favour of a person not belonging to his family shall be invalid.

(4) If at the time of making a nomination the employee has no family, the nomination may be in favour of any person or persons, but if the employee subsequently acquires a family, such nomination shall forthwith be deemed to be invalid and the employee may be allowed to make a fresh nomination in favour of one or more persons belonging to his family.

(5) A nomination made by an employee may, at any time, be modified by him after giving a written notice to the trustees of his intention of doing so in Form No. 40B or in a form as near thereto as may be. If the nominee predeceases the employee, the interest of the nominee shall revert to the employee, who may thereupon make a fresh nomination in respect of such interest.

(6) A nomination or its modification shall take effect to the extent that it is valid on the date on which it is received by the trustees.

Explanation : For the purposes of this rule, "family" means the employee's spouse, legitimate children, step-children ⁹⁷[, deceased son's widow, deceased son's legitimate children, deceased son's step-children] and dependent parents ⁹⁸[***].]

Circumstances in which withdrawals may be permitted.

68. (1) Withdrawals by employees may be allowed by the trustees of the provident fund in the following circumstances:—

(a) to pay expenses incurred in connection with the illness of the employee or a member of his family;

⁹⁹[(aa) meeting the cost of higher education, including, where necessary, the travelling expenses of any child of the employee actually dependent on him in the following cases, namely :—

(i) education outside India for academic, technical, professional or vocational courses beyond the ¹[matriculation] stage, and

(ii) any medical, engineering or other technical or specialised course in India beyond the ²[matriculation stage];]

(b) to pay for the cost of passage to a place out of India of an employee or any member of his family;

97. Inserted by the IT (Fifth Amtd.) Rules, 1985, w.e.f. 1-8-1985.

98. Words "sisters and minor brothers" omitted by the IT (First Amtd.) Rules, 2007, w.e.f. 15-1-2007.

99. Inserted by the IT (Second Amtd.) Rules, 1966.

1. Substituted for "High School" by the IT (Fifth Amtd.) Rules, 1985, w.e.f. 1-8-1985.

2. Substituted for "High School stage, provided that the course of study is for not less than three years", *ibid.*

(c) to pay expenses in connection with marriages, funerals or ceremonies, which by the religion of the employee it is incumbent upon him to perform;

³[(d) to meet the expenditure on building a house, or purchasing a site ⁴[or a house] or a house and a site and, in the case of an employee whose pay does not exceed rupees ⁵[five thousand] per month also on additions, substantial alterations or improvements necessary to a house:

Provided that the employee furnishes an undertaking to the trustees not to encumber or alienate such house or site ⁶[or such house and site] or house and site, as the case may be:

⁶**Provided further** that in the case of an employee whose pay does not exceed rupees ⁷[five thousand] per month, such house or site or such house and site shall not be deemed to be an encumbered property merely because such house or site or such house and site is—

- (i) mortgaged, solely for having obtained funds for the purchase of the said house or site or the said house and site or for the building of such house to any of the following agencies, namely, (a) the Central Government; (b) a State Government; (c) a co-operative society, being a society registered or deemed to be registered under the Co-operative Societies Act, 1912, or under any other law for the time being in force in any State relating to co-operative societies; (d) an institution; (e) a trust; (f) a local body; or (g) a housing finance corporation; or
- (ii) held in the name of any of the aforesaid agencies and the employee is precluded from transferring or otherwise disposing of that house or site or that house and site without the prior approval of such agency.]

Explanation : For the purposes of this clause, “pay” shall have the meaning assigned to it in the *Explanation* to sub-rules (2A) and (2B) of rule 69;]

⁸[(dd) for repayment of loan previously raised for the purpose of construction or purchase of a house;]

3. Substituted by the IT (Eighth Amtd.) Rules, 1983, w.r.e.f. 3-10-1981. Clause (d) was first substituted by the IT (Fourth Amtd.) Rules, 1964.

The word ‘house’ will cover a ‘flat’ also—*Karnataka Bank Employees Association v. CIT*[1999] 102 ITR 107 (Kar.).

4. Inserted by the IT (Fifth Amtd.) Rules, 1985, w.e.f. 1-8-1985.

5. Substituted for “two thousand and five hundred” by the IT (Third Amtd.) Rules, 1991, w.e.f. 1-4-1991. Earlier these words were substituted for “one thousand and six hundred” by the IT (Eighth Amtd.) Rules, 1985, w.e.f. 18-12-1985.

6. Inserted by the IT (Fifth Amtd.) Rules, 1985, w.e.f. 1-8-1985.

7. Substituted for “two thousand and five hundred” by the IT (Third Amtd.) Rules, 1991, w.e.f. 1-4-1991. Earlier these words were substituted for “one thousand and six hundred” by the IT (Eighth Amtd.) Rules, 1985, w.e.f. 18-12-1985.

8. Inserted by the IT (Fifth Amtd.) Rules, 1993, w.e.f. 16-3-1993.

- (e) to pay premia on policies of insurance on the life of the employee or of his wife provided that the policy is assigned to the trustees of the Fund or at their discretion deposited with them and that the receipts granted by the insurance company for the premia are from time to time handed over to the trustees for inspection by the ⁹[Assessing Officer];
- (f) to meet the cost of legal proceedings instituted by the employee for vindicating his position in regard to any allegations made against him in respect of any act done or purporting to be done by him in the discharge of his official duty or to meet the cost of his defence when he is prosecuted by the employer in any court of law in respect of any official misconduct on his part:

Provided that the advance under this clause shall not be admissible to an employee who institutes legal proceedings in any court of law either in respect of any matter unconnected with his official duty or against the employer in respect of any condition of service or penalty imposed on him;

- ¹⁰[(g) to meet the expenses of the damage caused to the movable or immovable property of the employee as a direct result of—
- (i) flood, cyclone, earthquake or other convulsion of nature; or
 - (ii) riot;]

¹¹[(h) in the case of an employee whose pay does not exceed rupees ¹²[five thousand] per month,—

 - (i) to meet his household expenses if a factory or other establishment, wherein he is working, is locked up or closed down for more than fifteen days for reasons other than a strike rendering him unemployed without any compensation or if he is not in receipt of wages for a continuous period of two months or more;
 - (ii) to meet his household expenses if the factory or other establishment wherein he is working, suffers cut in supply of electricity resulting in a loss of one-fourth or more of the total wages of the employee;
 - (iii) to meet the cost of purchasing an equipment required by a physically handicapped employee which will minimise his hardship on account of the handicap;

¹³[(iv) to meet his household expenses where the employee is discharged or dismissed or retrenched by the employer and such discharge,

9. Substituted for "Income-tax Officer" by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988.

10. Substituted by the IT (Fifth Amdt.) Rules, 1993, w.e.f. 16-3-1993. Prior to substitution, clause (g) as inserted by the IT (Amdt.) Rules, 1979, w.e.f. 30-1-1979, read as under:

"(g) to meet the expenses of the damage caused to the movable or immovable property of the employee as a direct result of flood, cyclone, earthquake or other convulsion of nature;"

11. Inserted by the IT (Fifth Amdt.) Rules, 1985, w.e.f. 1-8-1985.

12. Substituted for "two thousand and five hundred" by the IT (Third Amdt.) Rules, 1991, w.e.f. 1-4-1991. Earlier these words were substituted for "one thousand and six hundred" by the IT (Eighth Amdt.) Rules, 1985, w.e.f. 18-12-1985.

13. Inserted by the IT (Fifth Amdt.) Rules, 1993, w.e.f. 16-3-1993.

dismissal or retrenchment, as the case may be, is challenged by the employee in any court or tribunal and the case is pending in that court or tribunal.]

Explanation: For the purposes of this clause, “pay” shall have the meaning assigned to it in the *Explanation* to sub-rules (2A) and (2B) of rule 69.]

(2) For the purposes of sub-rule (1), “family” means any of the following persons who are wholly dependent on the employee, namely:— the employee’s wife, legitimate children, step-children, parents, sisters and minor brothers.

Conditions for withdrawal for various purposes.

69. ¹⁴[(1) The withdrawal ¹⁵[in connection with expenses on illness as specified in clause (a) of sub-rule (1) of rule 68 or] in connection with expenses on marriages as specified in clause (c) of sub-rule (1) of rule 68, by an employee whose pay exceeds rupees ¹⁶[five thousand] per month, shall not exceed six months’ pay or the total of the accumulation of exempted contributions and exempted interest lying to the credit of the employee, whichever is less.

(1A) The withdrawal for the purposes specified in clause (aa) and clause (c) of sub-rule (1) of rule 68, by an employee, whose pay does not exceed rupees ¹⁶[five thousand] per month, shall be subject to the following conditions, namely :—

- (a) the amount of withdrawal shall not exceed one-half of the employee’s contributions to the fund with interest thereon;
- (b) the employee shall have completed seven years of service;
- (c) the amount of the employee’s contributions to the fund with interest thereon is not less than rupees one thousand.]

(2) The withdrawal for the purpose specified in clause (d) ¹⁷[and clause (dd)] of sub-rule (1) of rule 68 ¹⁸], by any employee whose pay exceeds rupees ¹⁶[five thousand] per month,] shall be subject to the following conditions:—

- (i) the amount of withdrawal shall not exceed one-half of the amount standing to the employee’s credit or the actual cost of the house and/or of the site, whichever is less;
- ¹⁹[(ii) the employee shall have completed ²⁰[ten] years of service or is due to retire within the next ten years;]
- (iii) the construction of the house should be commenced within six months of the withdrawal and should be completed within one year from the date of the commencement of the construction;

14. Substituted for sub-rule (1) by the IT (Fifth Amtd.) Rules, 1985, w.e.f. 1-8-1985.

15. Inserted by the IT (Fifth Amtd.) Rules, 1993, w.e.f. 16-3-1993.

16. Substituted for “two thousand and five hundred” by the IT (Third Amtd.) Rules, 1991, w.e.f. 1-4-1991. Earlier these words were substituted for “one thousand and six hundred” by the IT (Eighth Amtd.) Rules, 1985, w.e.f. 18-12-1985.

17. Inserted by the IT (Fifth Amtd.) Rules, 1993, w.e.f. 16-3-1993.

18. Inserted by the IT (Eighth Amtd.) Rules, 1983, w.e.f. 3-10-1981.

19. Substituted by the IT (Second Amtd.) Rules, 1964.

20. Substituted for “twenty” by the IT (Eighth Amtd.) Rules, 1980. Earlier “twenty” was substituted for “twenty-three” by the IT (Second Amtd.) Rules, 1971.

- (iv) if the withdrawal is made for the purchase of a house and/or a site for a house, the purchase should be made within six months of the withdrawal;
- (v) if the withdrawal is made for the repayment of loan previously raised for the purpose of construction or purchase of a house, the repayment of the loan should be made within three months of the withdrawal;
- (vi) where the withdrawal is for the construction of a house, it shall be permitted in two or more equal instalments (not exceeding four), a later instalment being permitted only after verification by the trustees about the actual utilisation of the earlier withdrawal;
- (vii) the withdrawal shall be permitted only if the house and/or site is free from encumbrances and no withdrawal shall be permitted for purchasing a share in a joint property or building or house or land whose ownership is divided;
- (viii) if the amount withdrawn exceeds the actual cost of the purchase or construction of the house and/or site, or if the amount is not utilised for the purpose for which it is withdrawn, the excess or the whole amount, as the case may be, shall be refunded to the trustees forthwith in one lump sum together with interest from the month of such withdrawal at the rate prescribed in sub-rule (4) of rule 71. The amount refunded shall be credited to the employee's account in the provident fund.

²¹[(2A) The withdrawal for the purpose specified in clause (d) of sub-rule (1) of rule 68, by any employee whose pay does not exceed rupees ²²[five thousand] per month, shall be subject to the following conditions, namely:—

²³[(i) the amount of withdrawal shall not exceed—

- (a) the employee's basic wages and dearness allowance for ²⁴[thirty-six] months; or
- (b) the actual cost of building the house or of purchasing the house or the site or the house and the site; or
- (c) the employee's contribution to the fund together with the specified percentage of the employer's contributions to that fund with interest thereon;

whichever is less.

Explanation : For the purposes of sub-clause (c), "specified percentage" means—

- (1) 75 per cent of the employee's contribution forming part of the accumulation as on the date of the authorisation of payment, if the

21. Inserted by the IT (Eighth Amtd.) Rules, 1983, w.r.e.f. 3-10-1981.

22. Substituted for "two thousand and five hundred" by the IT (Third Amtd.) Rules, 1991, w.e.f. 1-4-1991. Earlier these words were substituted for "one thousand and six hundred" by the IT (Eighth Amtd.) Rules, 1985, w.e.f. 18-12-1985.

23. Substituted by the IT (Fifth Amtd.) Rules, 1985, w.e.f. 1-8-1985.

24. Substituted for "twenty-four" by the IT (Eighth Amtd.) Rules, 1985, w.e.f. 18-12-1985.

period of membership of the employee in the fund is five years or more, but less than ten years;

- (2) 85 per cent of such contribution, if the period of membership of the employee in the fund is 10 years or more, but less than 15 years; and
 - (3) 100 per cent of such contribution, if the period of membership of the employee in the fund is 15 years or more ;]
- (i) the employee shall have completed five years of service or is due to retire within the next ten years;
 - (iii) the withdrawal shall be permitted only if the house and/or site is free from encumbrances;
 - (iv) no withdrawal shall be permitted for purchasing a share in a joint property or a building or a house or land whose ownership is divided except where a site is owned jointly with the spouse;
 - (v) where the withdrawal is for construction of a house, the payment of the withdrawal may be sanctioned in such number of instalments (not exceeding four) as the trustees of the fund think fit;
 - (vi) where the withdrawal is for the construction of a house, the construction of the house should be commenced within six months of the withdrawal and should be completed within twelve months of the withdrawal of final instalment;
 - (vii) if the withdrawal is made for the purchase of a house and/or a site for a house, the purchase should be made within six months of the withdrawal;
 - (viii) if the amount withdrawn exceeds the actual cost of the purchase or construction of the house and/or site or if the amount is not utilised for the purpose for which it is withdrawn, the excess or the whole amount, as the case may be, shall be refunded to the trustees forthwith in one lump sum together with interest from the month of such withdrawal at the rate prescribed in sub-rule (4) of rule 71 and the amount so refunded shall be credited to the employee's account in the fund.]

²⁵[(2B) A withdrawal for additions, substantial alterations or improvements necessary to the house owned by the employee or jointly owned by the employee and the spouse may be granted once and in one instalment only to an employee whose pay does not exceed rupees ²⁶[five thousand] per month, up to ²⁷[twelve] months' basic wages and dearness allowance or the employee's own share of contribution with interest thereon or the amount standing to his credit in the fund, whichever is less :

25. Inserted by the IT (Eighth Amdt.) Rules, 1983, w.r.e.f. 3-10-1981.

26. Substituted for "two thousand and five hundred" by the IT (Third Amdt.) Rules, 1991, w.e.f. 1-4-1991. Earlier these words were substituted for "one thousand and six hundred" by the IT (Eighth Amdt.) Rules, 1985, w.e.f. 18-12-1985.

27. Substituted for "six" by the IT (Fifth Amdt.) Rules, 1985, w.e.f. 1-8-1985.

Provided that the said withdrawal shall be admissible only after a period of five years from the date of purchase or completion of the house :

Provided further that where the amount withdrawn is not utilised in whole or in part for the purpose for which it was withdrawn, the excess or the whole amount, as the case may be, shall be refunded to the trustees forthwith in one lump sum together with interest from the month of such withdrawal at the rate prescribed in sub-rule (4) of rule 71 and the amount so refunded shall be credited to the employee's account in the fund.

Explanation : For the purposes of sub-rules (2A) and (2B), "pay" includes basic wages with dearness allowance, retaining allowance (if any), and cash value of food concession admissible thereon, to which the employee is entitled at the time when the withdrawal is granted or, in the case of an employee referred to in sub-rule (2) of rule 5 of Part A of the Fourth Schedule, the pay (including increments, if any) which he would have received had he not entered the armed forces of the Union or being taken into or employed in the national service.]

(3) The withdrawal for the purpose specified in clause (f) of sub-rule (1) of rule 68 shall not exceed three months' pay²⁸ or Rs. 500, whichever is greater, but shall in no case exceed half the amount to the credit of the employee.

(4) The withdrawal for any other purpose referred to in sub-rule (1) of rule 68²⁹[except as provided in sub-rule (1A)] shall not exceed three months' pay²⁸ or the total of the accumulation of exempted contributions and exempted interest lying to the credit of the employee, whichever is less.

(5) For the purpose of this rule³⁰[except sub-rules (2A) and (2B)], "pay" means the pay to which the employee is entitled at the time when the withdrawal is granted or, in the case of an employee referred to in sub-rule (2) of rule 5 of Part A of the Fourth Schedule, the pay (including increments, if any) which he would have received had he not entered the armed forces of the Union or been taken into or employed in the national service.

Second withdrawal.

70. (1) Save as in sub-rule (2)²⁹[and sub-rule (3)], a second withdrawal shall not be permitted until the sum first withdrawn has been fully repaid.

³¹(2) A withdrawal may be permitted—

- (a) for any purpose specified in clause (d) or clause (e) of sub-rule (1) of rule 68 notwithstanding that the sum withdrawn earlier for any purpose has not been repaid ;

28. 'Pay' shall have the same meaning as 'salary'—Letter F. No. 44/13/64-ITJ, dated 6-9-1964. For details, see Taxmann's Master Guide to Income-tax Rules.

29. Inserted by the IT (Fifth Amdt.) Rules, 1985, w.e.f. 1-8-1985.

30. Inserted by the IT (Eighth Amdt.) Rules, 1983, w.r.e.f. 3-10-1981.

31. Substituted by the IT (Second Amdt.) Rules, 1971.

- (b) for any other purpose specified in sub-rule (1) of rule 68 notwithstanding that any sum withdrawn earlier for any purpose specified in clause (d) or clause (e) of the said sub-rule (1) has not been repaid.]

³²[(3) A withdrawal, referred to in clause (a) of sub-rule (2), of an amount equal to the difference between the amount of withdrawal admissible under sub-rule (2A) of rule 69 as on the date of application and the amount actually withdrawn by the employee for the purpose specified in clause (d) of sub-rule (1) of rule 68 any time during six years preceding the 3rd day of October, 1981, may be permitted to the employee, whose pay does not exceed rupees ³³[five thousand] per month, subject to the following conditions, namely :—

- (i) the employee had availed of the first withdrawal for purchase of a site and now proposes to construct a house on the site so purchased; or
- (ii) the employee had availed of the first withdrawal for making initial payment towards allotment or purchase of a house from any of the agencies referred to in the second proviso to clause (d) of sub-rule (1) of rule 68 and now proposes to withdraw the amount for completing the transaction and for acquiring ownership of the house so purchased; or
- (iii) the employee had availed of the first withdrawal for construction of a house but the said construction could not be completed due to shortage of funds.]

Repayment of amounts withdrawn.

71. (1) Subject to the provisions of clause (viii) of sub-rule (2) ³⁴[or clause (viii) of sub-rule (2A) or the second proviso to sub-rule (2B)] of rule 69 where a withdrawal is allowed for a purpose specified in ³⁵[clause (d) or clause (dd) or clause (e) or sub-clause (i) of clause (h) of sub-rule (1)] of rule 68, the amount withdrawn need not be repaid.

(2) Where a withdrawal is allowed in connection with marriages as specified in clause (c) of sub-rule (1) of rule 68, the amount withdrawn shall be repaid in not more than forty-eight equal monthly instalments.

(3) Where a withdrawal is allowed for any other purpose, the amount withdrawn shall be repaid in not more than twenty-four equal monthly instalments.

(4) In respect of withdrawals referred to in sub-rules (2) and (3) and of the amount referred to in clause (viii) of sub-rule (2) ³⁴[or clause (viii) of sub-rule (2A) or the second proviso to sub-rule (2B)] of rule 69, interest shall be paid in accordance with the following Table :—

32. Inserted by the IT (Fifth Amdt.) Rules, 1985, w.e.f. 1-8-1985.

33. Substituted for "two thousand and five hundred" by the IT (Third Amdt.) Rules, 1991, w.e.f. 1-4-1991. Earlier these words were substituted for "one thousand and six hundred" by the IT (Eighth Amdt.) Rules, 1985, w.e.f. 18-12-1985.

34. Inserted by the IT (Eighth Amdt.) Rules, 1983, w.r.e.f. 3-10-1981.

35. Substituted for "clause (d) or clause (e) of sub-rule (1)" by the IT (Fifth Amdt.) Rules, 1993, w.e.f. 16-3-1993.

TABLE

1	2
Where the amount is repaid in not more than 12 monthly instalments	One additional instalment of 4% on the amount withdrawn
Where the amount is repaid in more than 12 monthly instalments but not more than 24 monthly instalments	Two additional instalments of 4% on the amount withdrawn
Where the amount is repaid in more than 24 monthly instalments but not more than 36 monthly instalments	Three additional instalments of 4% on the amount withdrawn
Where the amount is repaid in more than 36 monthly instalments but not more than 48 monthly instalments	Four additional instalments of 4% on the amount withdrawn
Where the amount is refunded under clause (viii) of sub-rule (2) of rule 69	4% of the amount which is refundable :

Provided that at the discretion of the trustees of the fund, interest may be recovered on the amount aforesaid or the balance thereof outstanding from time to time at one per cent above the rate which is payable for the time being on the balance in the fund at the credit of the employee.

(5) The employer shall deduct the instalments aforesaid from the employee's salary, and pay them to the trustees of the fund. These deductions shall commence from the second monthly payment of salary made after the withdrawal or, in the case of an employee on leave without pay, from the second monthly payment of salary made after his return to duty.

³⁶[**Certain rules not to apply.**

71A. The conditions stipulated in rules 68, 69, 70 and 71 shall not apply in respect of withdrawals made after 1st April, 2007 from a fund which fulfils the conditions stipulated in *sub-rule (ea) of rule 4 of Part A of the Fourth Schedule to the Income-tax Act, 1961.]

Amount withdrawn but not repaid may be deemed as income.

72. In case of default of repayment of instalments due under sub-rule (2) or sub-rule (3) or sub-rule (4) of rule 71 or where the amount withdrawn is not utilised for the purpose for which it is withdrawn, the ³⁷[Chief Commissioner or Commissioner] may at his discretion order that the amount of the withdrawal or the amount outstanding shall be added to the total income of the employee for the year in which the default occurs or the withdrawn amount is finally held not to have been utilised

36. Inserted by the IT (First Amdt.) Rules, 2007, w.e.f. 15-1-2007.

37. Substituted for "Commissioner" by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988.

*For 'sub-rule' read 'clause' vide Notification No. 16/2007 [F. No. 142/37/2006-TPL], dated 25-1-2007.

for the purpose for which it is withdrawn, and the ³⁸[Assessing Officer] shall assess the employee accordingly.

³⁹**[Withdrawal within twelve months before retirement.**

73. Notwithstanding anything contained in rules 68 to 72, it shall be open to the trustees of a provident fund to permit at any time within twelve months before the date of retirement on superannuation of an employee, the withdrawal of upto ninety per cent of the amount standing at the credit of the employee.]

Accounts.

74. (1) The accounts of a provident fund shall be prepared at intervals of not more than twelve months.

(2) An account shall be maintained for each subscriber to the fund and it shall include the particulars shown in Form No. 41.

(3) Where the accounts of a provident fund are kept outside India, certified copies of the accounts shall be supplied not later than the 15th June in each year to a local representative of the employer in India :

Provided that the ⁴⁰[Assessing Officer] may in any year appoint a date later than the 15th June as the date by which the certified copies shall be supplied.

⁴¹(4) An abstract for the financial year or other applicable accounting period of the individual account of each employee participating in a provident fund shall be furnished by the trustees to the Assessing Officer of the area in which the accounts of the fund are kept or if the accounts are kept outside India, to the Assessing Officer of the area in which the local headquarters of the employer are situated, not later than the fifteenth day of June in each year or any other subsequent date fixed by the Assessing Officer. It shall be in the form prescribed in sub-rule (2) of

38. Substituted for "Income-tax Officer" by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988.

39. Substituted by the IT (Ninth Amdt.) Rules, 1994, w.e.f. 30-8-1994. Prior to substitution, rule 73 read as under :

"73. Withdrawal on leave preparatory to retirement.—Notwithstanding anything contained in rules 68 to 72, it shall be open to the trustees of a provident fund to permit the withdrawal of ninety per cent of the amount standing at the credit of an employee if the employee takes leave preparatory to retirement, provided that if he rejoins duty on the expiry of his leave he shall refund the amount drawn together with interest at the rate allowed by the fund."

40. Substituted for "Income-tax Officer" by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988.

41. Substituted by the IT (First Amdt.) Rules, 2007, w.e.f. 15-1-2007. Prior to its substitution, sub-rule (4), as amended by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988, read as under :

"(4) An abstract for the financial year or other applicable accounting period of the individual account of each employee participating in a provident fund in respect of whom a return is required to be furnished under sub-rule (4) of rule 35 shall be furnished by the trustees to the Assessing Officer specified in sub-rule (2) of rule 32 not later than the fifteenth day of June in each year or any other subsequent date fixed by the Assessing Officer. It shall be in the form prescribed in sub-rule (2) of this rule, but shall show only the totals of the various columns thereof for the financial year or other accounting period. It shall also give an account of any temporary withdrawals by the employee during the year and of the repayment thereof. Similar abstract shall also be furnished in respect of other employees participating in a provident fund who were allowed withdrawals under rules 68 to 70 or who come within the purview of sub-rule (1) of rule 75."

this rule, but shall show only the totals of the various columns thereof for the financial year or other accounting period. It shall also give an account of any temporary withdrawals by the employee during the year and of the repayment thereof. Similar abstract shall also be furnished in respect of other employees participating in a provident fund who come within the purview of sub-rule (1) of rule 75.]

(5) The account to be made under the provisions of sub-rule (1) of rule 11 of Part A of the Fourth Schedule shall show in respect of each employee (i) the total salary paid to the employee during the period of his participation in the provident fund, (ii) the total contributions, (iii) the total interest which has accrued thereon, and (iv) so far as may be, the percentage of the employee's salary in accordance with which contributions have been made by the employer and employee.

⁴²[(6) Every employer shall, as soon as possible, after the close of each financial year, send to each member, a statement of his account in the fund showing the opening balance at the beginning of the period, amount contributed during the year, the total amount of interest credited at the end of the period or debited in the period and the closing balance at the end of the period.]

Limits for contributions.

75. ⁴³(1) Where an employee of a company owns shares in the company with a voting power exceeding ten per cent of the whole of such power, the sum of the contributions of the employee and employer to the recognized provident fund maintained by the company shall not exceed Rs. 250 in any month.

(2) For the purpose of clause (a) of sub-rule (4) of rule 5 of Part A of the Fourth Schedule the employer's aggregate contribution in any year, including the normal contribution, to the individual account of any one employee whose salary does not exceed five hundred rupees per mensem shall not exceed double the amount of the contribution of the employee in that year.

(3) The amount of the periodical bonuses and other contributions of a contingent nature which may be credited by an employer in any year under clause (b) of sub-rule (4) of rule 5 of Part A of the Fourth Schedule to the individual account of any one employee shall not exceed the amount of the contributions of the employee in that year :

Provided, however, that the above limit shall not apply to bonus contributions made by an employer under an award by an Industrial Tribunal or under an order of a

42. Inserted by the IT (First Amdt.) Rules, 2007, w.e.f. 15-1-2007.

43. Limit applies to employer's contribution only - *CIT v. Raab Pipe Works (P.) Ltd.* [1997] 226 ITR 710 (Mad.). Limit cannot be applied to statutory funds - *CIT v. Indocean Engineer (P.) Ltd.* [1997] 225 ITR 201/93 Taxman 476 (AP). Limit must be satisfied even after the fund is established - *CIT v. Hyderabad Asbestos Cement Products Ltd.* [1988] 172 ITR 762 (AP). Rule 75(1) limits the ceiling of deduction to Rs. 250 only in respect of contributions made by an employer to the recognized provident fund maintained by the company and contribution to fund under scheme formulated under EPF Act are deductible in full—*CIT v. Indocean Engineer (P.) Ltd.* [1997] 225 ITR 201/93 Taxman 476 (AP). For details, see Taxmann's Master Guide to Income-tax Rules.

Court or under an agreement with the employees' union(s) to the individual accounts of employees whose salary does not exceed Rs. 500 per month.

Penalty for assigning or creating a charge on beneficial interest.

76. If an employee assigns or creates a charge upon his beneficial interest in a recognised provident fund, the ⁴⁴[Assessing Officer] shall, on the fact of the assignment or charge coming to his knowledge, give notice to the employee that if he does not secure the cancellation of the assignment or charge within two months of the date of receipt of the notice, the consideration received for such assignment or charge shall be deemed to be income received by him in the year in which the fact became known to the ⁴⁴[Assessing Officer] and shall be assessed accordingly.

Application for recognition.

77. (1) An application for recognition shall be made by the employers maintaining a provident fund for which recognition is sought and shall be accompanied by the following documents :—

- (a) the trust deed if any in original with one copy thereof, the latter to be retained by the ⁴⁵[Chief Commissioner or Commissioner], and
- (b) the rules of the fund :

Provided that if the original of the trust deed cannot conveniently be produced, it shall be open to the ⁴⁵[Chief Commissioner or Commissioner] to accept in lieu of the original a copy certified either by a Magistrate or in any manner specified in rule 17 of the Companies (Central Government's) General Rules and Forms, 1956, in which case an additional copy shall be furnished for retention by the ⁴⁵[Chief Commissioner or Commissioner].

(2) The application shall be submitted through the ⁴⁴[Assessing Officer] of the area in which the accounts of the fund are kept or, if the accounts are kept outside India, through the ⁴⁴[Assessing Officer] of the area in which the local headquarters of the employer are situate.

(3) ⁴⁶[The application shall be furnished in Form No. 40C and shall include the following information]:—

- (a) Name of employer and address, his business, profession, etc., also his principal place of business.
- (b) Number of employees subscribing to the fund—
 - (i) in India,
 - (ii) outside India.

44. Substituted for "Income-tax Officer" by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988.

45. Substituted for "Commissioner", *ibid*.

46. Substituted for "The application shall contain the following information" by the IT (First Amdt.) Rules, 2007, w.e.f. 15-1-2007.

- (c) Place where the accounts of the fund are or will be maintained.
- (d) If the fund is already in existence—
 - (i) a copy of the last balance sheet of the fund, where such is maintained,
 - (ii) details of investments of the fund.

⁴⁷[(4) The application in Form No. 40C shall be verified in the manner specified therein.]

⁴⁸[(5) A fund which has been granted recognition on or before 31st March, 2006 or has applied for recognition before the publication of this notification in the Official Gazette, shall make a fresh application in Form No. 40C through the Assessing Officer referred to in sub-rule (2).]

Order of recognition.

78. An order according recognition to a provident fund shall take effect from the last day of the month in which the application for recognition is received by the income-tax authority concerned, unless, at the request of the employer, the last day of any later month in the same financial year is specified :

⁴⁹[**Provided** that if the ⁵⁰[Chief Commissioner or Commissioner] is satisfied that there was sufficient reason for the delay in making such application, he may accord recognition to the fund from a date not earlier than the 1st day of April of the financial year in which the application is made.]

⁵¹[**Withdrawal of recognition.**

79. (1) The Chief Commissioner or Commissioner may withdraw recognition granted to a provident fund if it does not fulfil the conditions specified in

47. Substituted by the IT (First Amdt.) Rules, 2007, w.e.f. 15-1-2007. Prior to its substitution, sub-rule (4) read as under :

“(4) A verification in the following form shall be annexed to the application :—

FORM OF VERIFICATION

We/I, the trustee(s) of the abovenamed fund, do declare that what is stated in the above application is true to the best of our/my information and belief, and that the documents sent herewith are the originals or true copies thereof.”

48. Inserted, *ibid*.

49. Inserted by the IT (Second Amdt.) Rules, 1971.

Recognition once granted cannot be reviewed by taxing authorities. They must proceed on the basis that the fund is recognised, until Commissioner, acting under rule 79, withdraws recognition - *Gestetner Duplicators (P.) Ltd. v. CIT* [1979] 117 ITR 1 (SC). For details, see Taxmann’s Master Guide to Income-tax Rules.

50. Substituted for “Commissioner” by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988.

51. Substituted by the IT (First Amdt.) Rules, 2007, w.e.f. 15-1-2007. Prior to its substitution, rule 79, as amended by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988, read as under :

“79. *Withdrawal of recognition.*—Before withdrawing recognition, the Chief Commissioner or Commissioner shall give an opportunity to the employer and the trustees of the fund to show cause why recognition should not be withdrawn.”

Part A of the Fourth Schedule to the Income-tax Act, 1961 or subsequent to grant of recognition under the Income-tax Act, 1961 the exemption granted under section 17 of the Employees' Provident Fund and Miscellaneous Provisions Act, 1952 is withdrawn under sub-section (4) of section 17 of the said Act.

(2) Before withdrawing recognition, the Chief Commissioner or Commissioner shall give an opportunity to the employer and the trustees of the fund to show cause why recognition should not be withdrawn.]

Exemption from tax when recognition withdrawn.

80. If the ⁵²[Chief Commissioner or Commissioner] withdraws recognition from a provident fund, the balance to the credit of each employee at the end of the financial year prior to the date of the withdrawal of recognition shall, subject to the provisions of rule 9 of Part A of the Fourth Schedule, be paid to him free of ⁵³[tax] at the time when such employee receives the accumulated balance due to him. The remainder of the accumulated balance due to him shall be liable to ⁵³[tax] as if the fund had never been recognised.

Appeal.

81. An appeal under sub-rule (1) of rule 13 of Part A of the Fourth Schedule shall be in Form No. 42 and shall be verified in the manner indicated therein and shall be accompanied by a fee of rupees one hundred.

PART XIII

⁵⁴APPROVED SUPERANNUATION FUNDS

Definitions.

82. In this Part—

- (1) "beneficiary" means a person referred to in clause (b) of rule 3 of Part B of the Fourth Schedule for whom provision of annuity is made;
- (2) "fund" means a superannuation fund or a part of a superannuation fund ⁵⁵[which includes a fund, by whatever name called, established or constituted with a sole purpose of making payment of pension or family pension by the employer to his employees]; and
- (3) "trust" means the trust under which the superannuation fund is established and "trustee" means a trustee thereof.

Establishment of fund and trust.

83. The fund and the trust shall be established in India.

52. Substituted for "Commissioner" by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988.

53. Substituted for "income-tax and super-tax" by the IT (Amdt.) Rules, 1967.

54. See Part B of the Fourth Schedule.

55. Inserted by the IT (Eighth Amdt.) Rules, 1996, w.r.e.f. 29-9-1995.

Conditions regarding trustees.

84. (1) The trust shall have at least two trustees, provided that a company [as defined in clause (i) of sub-section (1) of section 3⁵⁶ of the Companies Act, 1956 (1 of 1956)] shall not be appointed as a trustee without the prior approval of the ⁵⁷[Chief Commissioner or Commissioner].

(2) The trustees of the fund shall be resident in India and any trustee who leaves India permanently shall vacate his office.

⁵⁸**[Investment of fund moneys.**

85. All moneys contributed to the fund after the 31st day of October, 1974, or received or accruing after that date by way of interest or otherwise to the fund may be deposited in a Post Office Savings Bank Account in India or in a current account ⁵⁹[or in a savings account] with any scheduled bank or utilised in accordance with rule 89 for making payments under a scheme of insurance or for purchase of annuities referred to in that rule; and to the extent such moneys as are not so deposited or utilised shall be invested in the manner specified in sub-rule (2) of rule 67, and for this purpose, the expression “investible moneys” in that sub-rule shall mean the moneys of the fund as are not deposited or utilised as aforesaid.]

Admission of directors to a fund.

86. Where the employer is a company⁶⁰ as defined in clause (i) of sub-section (1) of section 3 of the Companies Act, 1956 (1 of 1956), a director of the company may be admitted to the benefits of the fund only if he is a whole-time *bona fide* employee of the company and does not beneficially own shares in the company carrying more than five per cent of the total voting power.

Ordinary annual contributions.

⁶¹**87.** The ordinary annual contribution by the employer to a fund in respect of any particular employee shall not exceed ⁶²[twenty-seven] per cent of his salary for each year as reduced by the employer’s contribution, if any, to any provident fund (whether recognised or not) in respect of the same employee for that year.

Initial contributions.

⁶¹**88.** Subject to any condition which the Board may think fit to specify under clause (iv) of sub-section (1) of section 36, the amount to be allowed as a deduction on account of an initial contribution which an employer may make in

56. Clause (i) of section 3(1) of the Companies Act, 1956, defines “company” as follows :

‘(i) “company” means a company formed and registered under this Act or an existing company as defined in clause (ii);’

57. Substituted for “Commissioner” by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988.

58. Substituted by the IT (Fourth Amdt.) Rules, 1974, w.e.f. 1-11-1974.

59. Inserted by the IT (Sixteenth Amdt.) Rules, 1990, w.e.f. 1-4-1991.

60. For definition of “company”, see footnote 56 above.

61. Rules 87 and 88 refer not only to the limits prescribed for the recognition and approval of the provident fund and superannuation fund, as the case may be, but also relate to the contributions thereafter made, whether such contributions are annual contributions or initial contributions.—*CIT v. Hyderabad Asbestos Cement Products Ltd.* [1988] 172 ITR 762 (AP).

(Contd. on p. 1.246)

respect of the past services of an employee admitted to the benefits of a fund shall not exceed twenty-five per cent of the employee's salary for each year ⁶³[up to the 21st September, 1997 and after 21st September, 1997, twenty-seven per cent of the employee's salary for each year] of his past service with the employer as reduced by the employer's contribution, if any, to any provident fund (whether recognised or not) in respect of that employee for each such year.

⁶⁴**Scheme of insurance or annuity.**

89. For the purpose of providing the annuities for the beneficiaries, the trustees shall—

- (i) enter into a scheme of insurance with the Life Insurance Corporation established under the Life Insurance Corporation Act, 1956 (31 of 1956) ⁶⁵[or any other insurer as defined in clause (28BB) of section 2 of the Income-tax Act, 1961], or
- (ii) accumulate the contributions in respect of each beneficiary and purchase an annuity from the said Life Insurance Corporation of India ⁶⁵[or any other insurer] at the time of the retirement or death of each employee or on his becoming incapacitated prior to retirement :

⁶⁶**Provided** that nothing in this rule shall apply to a fund established or constituted, under an irrevocable trust which has its sole purpose to make payment of pension or family pension, in accordance with the rules or regulations made under the following Central Acts, namely :—

- (i) the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (5 of 1970); or
- (ii) the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980 (40 of 1980); or
- (iii) the State Bank of India Act, 1955 (23 of 1955); or

(Contd. from p. 1.245)

For conditions specified under section 36(1)(iv) and the procedure for computing the deduction, refer to Notification No. SO 3433, dated 21-10-1965 and Circular No. 4P (LVIII-30), dated 25-11-1965.

The second condition specified in Notification, dated 21-10-1965 which disentitled the employer to claim deduction of 20 per cent of the initial contribution overstepped the power given to the Board by the second limb of clause (iv), and the third condition allowing deduction over a period of years was also beyond the powers of the Board. Both these conditions are invalid.—*CIT v. Sirpur Paper Mills* [1999] 237 ITR 41 (SC).

For details, see Taxmann's Master Guide to Income-tax Rules.

62. Substituted for "twenty-five" by the IT (Second Amdt.) Rules, 1998, w.r.e.f. 22-9-1997.

63. Inserted, *ibid*.

64. For clarifications on the scheme of insurance annuity, see Circular No. 500, dated 9-12-1987, Letter F. No. 276/6/77-IT(A-II), dated 7-6-1978 and Circular No. 403, dated 5-12-1984. Rules 89 and 91 are not arbitrary, and they cannot be said to violate articles 14 and 19(1)(g) of Constitution - *Sasadhhar Chakravarty v. UOI* [1997] 90 Taxman 121 (SC). For details, see Taxmann's Master Guide to Income-tax Rules.

65. Inserted by the IT (Fifteenth Amdt.) Rules, 2002, w.r.e.f. 23-10-2000.

66. Inserted by the IT (Eighth Amdt.) Rules, 1996, w.r.e.f. 29-9-1995.

- (iv) the State Bank of India (Subsidiary Banks) Act, 1959 (38 of 1959); or
- (v) the Industrial Development Bank of India Act, 1964 (18 of 1964); or
- (vi) the National Bank for Agriculture and Rural Development Act, 1981 (61 of 1981); or
- (vii) the Export-Import Bank of India Act, 1981 (28 of 1981); or
- (viii) the Industrial Reconstruction Bank of India Act, 1984 (62 of 1984); or
- (ix) the Small Industries Development Bank of India Act, 1989 (39 of 1989); or
- (x) the National Housing Bank Act, 1987 (53 of 1987).]

⁶⁷[**Commutation of annuity.**

90. Any payment in commutation of annuity shall not exceed—

- (a) in a case where the employee receives any gratuity, the commuted value of ⁶⁸[one-third] of the annuity which he is normally entitled to receive, and
- (b) in any other case, the commuted value of ⁶⁹[one-half] of such annuity,

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.]

Beneficiary not to have any interest in insurance and employer not to have any interest in fund's moneys.

91. (1) No beneficiary shall have any interest in any insurance policy taken out by the trustees under the rules of a fund and he shall be entitled only to an annuity from the fund.

(2) No money belonging to the fund shall be receivable by the employer under any circumstances nor shall the employer have any lien or charge on the fund.

Penalty if employee assigns or charges interest in fund.

92. If an employee assigns or creates a charge upon his beneficial interest in a fund, the ⁷⁰[Assessing Officer] shall give notice to the employee that if he does not secure the cancellation of the assignment or charge within two months of the date of receipt of the notice, the consideration received for such assignment or charge shall be deemed to be income received by him in the previous year in which the fact became known to the ⁷⁰[Assessing Officer] and shall be assessed accordingly.

67. Substituted by the IT (Second Amdt.) Rules, 1968.

68. Substituted for "one-fourth" by the IT (Fourth Amdt.) Rules, 1984, w.e.f. 1-4-1985.

69. Substituted for "one-third", *ibid.*

70. Substituted for "Income-tax Officer" by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988.

Arrangements on winding up, etc., of business.⁷¹

93. Where the employer's trade or undertaking is to be wound up or discontinued, the trustees shall, with the prior approval of, and subject to such conditions as may be imposed by, the ⁷²[Chief Commissioner or Commissioner], make satisfactory arrangements for the payment of annuities to the existing employees or, on the death of the employees, to their widows, children or dependents.

Arrangements for winding up, etc., of fund.⁷³

94. Any arrangements for the winding up of the fund or for its amalgamation with another fund shall be subject to the prior approval of, and subject to such conditions as may be imposed by, the ⁷⁴[Chief Commissioner or Commissioner].

Application for approval.

95. (1) The application for approval of a fund or part of a fund under sub-rule (1) of rule 4 of Part B of the Fourth Schedule shall contain the following information :—

- (a) Name of employer and address, his business, profession, etc., also his principal place of business.
- (b) Classes and number of employees entitled to the benefits of the fund—
 - (i) in India ;
 - (ii) outside India.
- (c) Place where the accounts of the fund are or will be maintained.
- (d) If the fund is already in existence, the details of investment of the fund.

(2) A verification in the following form shall be annexed to the application :—

FORM OF VERIFICATION

We/I, the trustee(s) of the abovenamed fund, do declare that what is stated in the above application is true to the best of our/my information and belief, and that the documents sent herewith are the originals or true copies thereof.

Amendment of rules, etc., of fund.

96. No alteration in the rules, constitution, objects or conditions of an approved fund shall be made without the prior approval of the ⁷⁴[Chief Commissioner or Commissioner].

71. An approved superannuation fund cannot be wound up unless necessitated by the winding up or discontinuance of the employer's trade or undertaking - Circular No. 595, dated 5-3-1991. For details, see Taxmann's Master Guide to Income-tax Rules.

72. Substituted for "Commissioner" by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988.

73. See Circular No. 595, dated 5-3-1991. For details, see Taxmann's Master Guide to Income-tax Rules.

74. Substituted for "Commissioner" by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988.

Appeal.

97. An appeal under sub-rule (1) of rule 8 of Part B of the Fourth Schedule shall be made in Form No. 43 and shall be verified in the manner indicated therein and shall be accompanied by a fee of rupees one hundred.

PART XIV**⁷⁵APPROVED GRATUITY FUNDS****Definitions.**

98. In this Part—

- (a) “beneficiary” means a person referred to in clause (b) of rule 3 of Part C of the Fourth Schedule for whom provision of gratuity is made;
- (b) “fund” means a “gratuity fund”; and
- (c) “trust” means the trust under which the fund is established and “trustee” means a trustee thereof.

Establishment of fund and trust.

99. The fund and the trust shall be established in India.

Conditions regarding trustees.

100. (1) The trust shall have at least two trustees provided that a company⁷⁶ [as defined in clause (i) of sub-section (1) of section 3 of the Companies Act, 1956 (1 of 1956)] shall not be appointed as a trustee without the prior approval of the⁷⁷[Chief Commissioner or Commissioner].

(2) The trustees of the fund shall be resident in India and any trustee who leaves India permanently shall vacate his office.

⁷⁸Investment of fund moneys.

101. All moneys contributed to the fund after the⁷⁹[31st day of October, 1974] or received or accruing after that date by way of interest or otherwise to the fund may be deposited in a Post Office Savings Bank Account in India or in a current account⁸⁰[or in a savings account] with any scheduled bank or utilised for the purpose of making contributions under Group Gratuity Scheme entered into with the Life Insurance Corporation of India established under the Life Insurance Corporation Act, 1956 (31 of 1956)⁸¹[or any other insurer as defined in clause (28BB)

75. See Part C of the Fourth Schedule.

76. For definition of “company”, see footnote 56 on page 1.245 *ante*.

77. Substituted for “Commissioner” by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988.

78. Substituted by the IT (Fourth Amdt.) Rules, 1974, w.e.f. 1-11-1974.

79. Substituted for “31st day of March, 1987” by the IT (Fourth Amdt.) Rules, 1987, w.e.f. 1-4-1987 reverting back to original position and rendering the amendment made by the IT (Second Amdt.) Rules, 1987, w.e.f. 1-4-1987 redundant.

80. Inserted by the IT (Sixteenth Amdt.) Rules, 1990, w.e.f. 1-4-1990.

81. Inserted by the IT (Fifteenth Amdt.) Rules, 2002, w.r.e.f. 23-10-2000.

of section 2 of the Income-tax Act, 1961] ⁸²; and to the extent such moneys as are not so deposited or utilised shall be invested in the manner specified in sub-rule (2) of rule 67, and for this purpose, the expression “investible moneys” in that sub-rule shall mean the moneys of the fund as are not deposited or utilised as aforesaid].]

⁸³[**Nomination.**

101A. (1) An employee may be allowed by the trustees of the gratuity fund to make a nomination conferring on one or more persons the right to receive the amount of gratuity in the event of his death, before that amount becomes payable or, having become payable, has not been paid. Such a nomination shall be made in Form No. 40A or in a form as near thereto as may be necessary.

(2) If an employee nominates more than one person under sub-rule (1), he shall, in his nomination, specify the amount or share payable to each of the nominees in such manner as to cover the whole of the amount of gratuity that may be payable in the event of his death.

(3) Where an employee has a family at the time of making a nomination, the nomination shall be in favour of one or more persons belonging to his family. Any nomination made by such employee in favour of a person not belonging to his family shall be invalid.

(4) If at the time of making a nomination the employee has no family, the nomination may be in favour of any person or persons, but if the employee subsequently acquires a family, such nomination shall forthwith be deemed to be invalid and the employee may be allowed to make a fresh nomination in favour of one or more persons belonging to his family.

(5) A nomination made by an employee may, at any time, be modified by him after giving a written notice to the trustees of his intention of doing so in Form No. 40B or in a form as near thereto as may be. If the nominee predeceases the employee, the interest of the nominee shall revert to the employee, who may thereupon make a fresh nomination in respect of such interest.

(6) A nomination or its modification shall take effect to the extent it is valid on the date on which it is received by the trustees.

⁸⁴[*Explanation:* For the purposes of this rule, “family” means the employee’s spouse, legitimate children, step-children, deceased son’s widow, deceased son’s legitimate children, deceased son’s step-children, dependent parents, sisters, minor brothers and the dependent parents of the employee’s spouse.]]

82. Inserted by the IT (Fourth Amdt.) Rules, 1987, w.e.f. 1-4-1987. See also Circular No. 482, dated 26-3-1987. For details, see Taxmann’s Master Guide to Income-tax Rules.

83. Inserted by the IT (Second Amdt.) Rules, 1971. See Circular No. 110, dated 13-4-1973. For details, see Taxmann’s Master Guide to Income-tax Rules.

84. Substituted by the IT (Eighth Amdt.) Rules, 1988, w.e.f. 5-10-1988.

Admission of directors to a fund.

102. Where the employer is a company⁸⁵ as defined in clause (i) of sub-section (1) of section 3 of the Companies Act, 1956 (1 of 1956), a director of the company may be admitted to the benefits of the fund only if he is a wholetime *bona fide* employee of the company and does not beneficially own shares in the company carrying more than five per cent of the total voting power.

Ordinary annual contributions.

⁸⁶**103.** The ordinary annual contribution by the employer to a fund shall be made on a reasonable basis as may be approved by the ⁸⁷[Chief Commissioner or Commissioner] having regard to the length of service of each employee concerned so, however, that such contribution shall not exceed $8\frac{1}{3}$ per cent of the salary of each employee during each year.

Initial contributions.

⁸⁸**104.** The amount to be allowed as a deduction on account of an initial contribution which an employer may make in respect of the past services of an employee admitted to the benefits of a fund shall not exceed $8\frac{1}{3}$ per cent of the employee's salary for each year of his past service with the employer.

Penalty if employee assigns or charges interest in fund.

105. If an employee assigns or creates a charge upon his beneficial interest in a fund, the ⁸⁹[Assessing Officer] shall give notice to the employee that if he does not secure the cancellation of the assignment or charge within two months of the date of receipt of the notice, the consideration received for such assignment or charge shall be deemed to be income received by him in the previous year in which the fact became known to the ⁸⁹[Assessing Officer] and shall be assessed accordingly.

Employer not to have interest in fund moneys.

106. No money belonging to the fund shall be receivable by the employer under any circumstances nor shall the employer have any lien or charge on the fund.

85. For definition of "company", see footnote 56 on page 1.245 *ante*.

86. Rule 103 cannot be invoked when section 40A(7) is applied — *CIT v. Malayala Manorama Co. Ltd.* [1994] 207 ITR 288 (Ker.). For details, see Taxmann's Master Guide to Income-tax Rules.

87. Substituted for "Commissioner" by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988.

88. For clarifications on this rule, see Circular Nos. 30(XLVII-18), dated 30-11-1964 and 14 [F. No. 19/4/69-IT(A-II)], dated 23-4-1969 and Extracts from Minutes (Item 31) of Ninth Meeting of DTAC held on 5-11-1966.

Rule 104 does not specify with any exactitude the actual amount which the assessee is liable to pay as the initial contribution. It lays down the principle that it shall not exceed one month's salary of the employee for each year of his past service with the employer—*Addl. CIT v. Barampur Raj Electric Supply Co.* [1981] 128 ITR 615/6 Taxman 232 (All.). For details, see Taxmann's Master Guide to Income-tax Rules.

89. Substituted for "Income-tax Officer" by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988.

Arrangements for winding up, etc., of business.

107. Where the employer's trade or undertaking is to be wound up or discontinued, the trustees shall, with the prior approval of, and subject to such conditions as may be imposed by, the ⁹⁰[Chief Commissioner or Commissioner], make satisfactory arrangements for the payment of gratuity to the existing beneficiaries.

Arrangements for winding up of the fund.

108. Any arrangements for the winding up of the fund or for its amalgamation with another fund shall be subject to the prior approval of, and to such conditions as may be imposed by, the ⁹⁰[Chief Commissioner or Commissioner].

Application for approval.

109. (1) The application for approval of a gratuity fund under sub-rule (1) of rule 4 of Part C of the Fourth Schedule shall contain the following information :—

- (a) Name of employer and address, his business, profession, etc., also his principal place of business.
- (b) Classes and number of employees entitled to admission to the fund—
 - (i) in India ;
 - (ii) outside India.
- (c) Place where the accounts of the fund are or will be maintained.
- (d) If the fund is already in existence, the details of investment of the fund.

(2) A verification in the following form shall be annexed to the application :—

FORM OF VERIFICATION

We/I, the trustee(s) of the abovenamed fund, do declare that what is stated in the above application is true to the best of our/my information and belief, and that the documents sent herewith are the originals or true copies thereof.

Amendment of rules, etc., of fund.

110. No alteration in the rules, constitution, objects or conditions of an approved fund shall be made without the prior approval of the ⁹⁰[Chief Commissioner or Commissioner].

Appeal.

111. An appeal under sub-rule (1) of rule 8 of Part C of the Fourth Schedule shall be made in Form No. 44 and shall be verified in the manner indicated therein and shall be accompanied by a fee of rupees one hundred.

90. Substituted for "Commissioner" by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988.

PART XV**MISCELLANEOUS**

⁹¹**Application for reduction of the amount of minimum distribution by a company.**

111A. [Omitted by the IT (Thirty-second Amdt.) Rules, 1999, w.e.f. 19-11-1999.]

⁹²**[Conditions for reference to Valuation Officers.**

111AA. The percentage of the value of the asset and the amount referred to in sub-clause (i) of clause (b) of section 55A shall, respectively, be 15 per cent and Rs. 25,000.]

⁹³**[Form of report of valuation by registered valuer.**

111AB. The report of valuation by a registered valuer in respect of any asset shall be furnished in the appropriate form specified in rule 8D of the Wealth-tax Rules, 1957, and shall be verified in the manner indicated in such form.]

91. Prior to its omission, rule 111A, as inserted by the IT (Third Amdt.) Rules, 1964, read as under:

“111A. *Application for reduction of the amount of minimum distribution by a company.*—An application under sub-section (1) of section 107A for reduction of the amount of the minimum distribution required of a company under Chapter XI-D shall be made in Form No. 44A.”

92. Inserted by the IT (Fourth Amdt.) Rules, 1972, w.e.f. 1-1-1973.

Section 55A having expressly set out the circumstances under which and the purposes for which a reference could be made to a Valuation Officer, there is no question of the Assessing Officer invoking the general powers of enquiry to make a reference in different circumstances and for other purposes. It is not open to a Valuation Officer to act in his capacity as Valuation Officer otherwise than in discharge of his statutory functions. He cannot be called upon nor would he have the jurisdiction to give a report to the Assessing Officer under the Income-tax Act except when a reference is made under and in terms of section 55A, or to a competent authority except under section 269L - *Smt. Amiya Bala Paul v. CIT* [2003] 130 Taxman 511/262 ITR 467 (SC).

Section 55A can be invoked only for computation of income under ‘capital gains’ - *Jindal Strips Ltd. v. ITO* [1979] 116 ITR 825 (Punj. & Har.) (FB). Where no question of capital gains is involved, invoking the jurisdiction of the Valuation Officer under section 55A would be wholly inappropriate, and the valuation report could merely be treated as a piece of evidence, which could be rebutted by assessee - *Hotel Amar v. CIT* [1993] 200 ITR 785 (Ori.) (*contra*). The powers of the Assessing Officer to refer the valuation of an asset to the Valuation Officer under section 55A are not necessarily confined to cases of capital gains only - *Daulatram v. ITO* [1990] 181 ITR 119 (AP)/ *C.T. Laxmandas v. Asstt. CIT* [1994] 208 ITR 859 (Mad.). When the valuation report is not forthcoming, the Assessing Officer can exercise his inherent powers to value the asset - *Shahdara (Delhi) Saharanpur Light Railway Co. Ltd. v. CIT* [1994] 208 ITR 882 (Cal.). If assessment proceedings are completed after making reference to Valuation Officer but before receipt of valuation report, valuation proceedings must be quashed - *Reliance Jute & Industries Ltd. v. ITO* [1984] 150 ITR 643 (Cal.). Where first reference was made to a Valuation Officer who was not competent to value the asset, a second reference to the competent Valuation Officer can be made - *Daulatram v. ITO* [1990] 181 ITR 119 (AP). No completed assessment can be reopened on the basis of valuation report obtained by the Assessing Officer after the assessment was completed - *Bhola Nath Majumdar v. ITO* [1996] 221 ITR 608 (Gauhati). Prior issue of show-cause notice to the assessee is necessary - *Prem Hotel v. ITO* [1997] 93 Taxman 237 (J&K). Reference in respect of assets owned by partners made during the pendency of reassessment proceedings initiated against the firm does not suffer from any legal infirmity warranting interference in writ proceedings - *William De Noronha v. Asstt. CIT* [1997] 227 ITR 27 (All.). Since valuation report can be challenged by way of appeal by assessee, writ for quashing the assessment is not maintainable - *Mohal Chand Bhardwaj v. Union of India* [1997] 228 ITR 590 (Delhi). For details, see Taxmann’s Master Guide to Income-tax Rules.

93. Inserted by the IT (Fourth Amdt.) Rules, 1972, w.e.f. 1-1-1973.

⁹⁴**[Publication and circulation of Board's order.**

111B. Any general or special order of the Board issued under clause (a) of sub-section (2) of section 119, the publication and circulation of which is, in the opinion of the Board, necessary in the public interest, shall be published and circulated in one or more of the following modes, namely :—

- (i) publication of the order in the Official Gazette;
- (ii) despatching copies of the order to Chambers of Commerce and other trade or professional associations which are, for the time being, borne on the mailing list of the Board;
- (iii) displaying copies of the order on the notice board of the office of every ⁹⁵[Chief Commissioner or Commissioner], ⁹⁶[Deputy Commissioner] and ⁹⁷[Assessing Officer].]

⁹⁸**Search and seizure.**

112. (1) The powers of search and seizure under section 132 shall be exercised in accordance with sub-rules (2) to ⁹⁹[(14)].

- ¹[(2) (a) The authorisation under sub-section (1) of section 132 (other than an authorisation under the proviso thereto) by the ²[Director-General or Director] or the ³[Chief Commissioner or Commissioner] or any such ⁴[Deputy Director] or ⁵[Deputy Commissioner] as is empowered by the Board in this behalf shall be in Form No. 45;
- (b) the authorisation under the proviso to sub-section (1) of section 132 by a ³[Chief Commissioner or Commissioner] shall be in Form No. 45A;
- (c) the authorisation under sub-section (1A) of section 132 by a ³[Chief Commissioner or Commissioner] shall be in Form No. 45B.

94. Inserted by the IT (Fourth Amtd.) Rules, 1971, w.e.f. 1-4-1971.

95. Substituted for "Commissioner" by the IT (Fifth Amtd.) Rules, 1989, w.r.e.f. 1-4-1988.

96. Substituted for "Inspecting Assistant Commissioner", *ibid*.

97. Substituted for "Income-tax Officer", *ibid*.

98. See Instruction No. 7/2003, dated 30-7-2003. Section 132 and rule 112 are not violative of articles 14 and 19(1)(f) of the Constitution - *Pooran Mal v. Director of Inspection (Investigation)* [1974] 93 ITR 505 (SC)/*Jain & Jain v. Union of India* [1982] 134 ITR 655 (Bom.). Immovable property cannot be subject of seizure - *Sardar Parduman Singh v. Union of India* [1987] 166 ITR 115 (Delhi)/*M.K. Gabriel Babu v. Asstt. Director of Income-tax (Investigation)* [1990] 186 ITR 435 (Ker.)/*CIT v. M.K. Gabriel Babu* [1991] 188 ITR 464 (Ker.). Fixed deposit receipts/titles cannot be treated as 'valuable article or thing' - *Bhagwandas Narayandas v. CIT* [1975] 98 ITR 194 (Guj.). Keeping police officers during search of premises of influential persons will not amount to use of excessive force - *ITO v. Seth Bros.* [1969] 74 ITR 836 (SC). In the absence of any allegation of use of force or excessive force, no exception can be taken to the presence of police personnel - *Subir Roy v. S.K. Chattopadhyay* [1986] 158 ITR 472 (Cal.). The emphasis in a search is on the independent character of witnesses and not on the locality they come from - *Sunder Singh v. State of UP* AIR 1956 SC 411/ *Hanuman Traders v. CTO* [1982] 51 STC 76 (Kar.). For details, see Taxmann's Master Guide to Income-tax Rules.

99. Substituted for "(11)" by the IT (Second Amtd.) Rules, 1965. Earlier "(11)" was substituted for "(10)" by the IT (Third Amtd.) Rules, 1964.

1. Substituted for sub-rules (2) and (3) by the IT (Fourth Amtd.) Rules, 1975, w.e.f. 1-10-1975. Sub-rule (2) was first substituted by the IT (Third Amtd.) Rules, 1964 and later amended by the IT (Amtd.)/(Second Amtd.)/(Fifth Amtd.) Rules, 1965.

2. Substituted for "Director of Inspection" by the IT (Fifth Amtd.) Rules, 1989, w.r.e.f. 1-4-1988.

3. Substituted for "Commissioner", *ibid*.

4. Substituted for "Deputy Director of Inspection", *ibid*.

5. Substituted for "Inspecting Assistant Commissioner", *ibid*.

(2A) Every authorisation referred to in sub-rule (2) shall be in writing under the signature of the officer issuing the authorisation and shall bear his seal.

(3) Any person in charge of or in any building, place, vessel, vehicle or aircraft authorised to be searched shall, on demand by the officer, authorised to exercise the powers of search and seizure under section 132 (hereinafter referred to as the authorised officer) and on production of the authority, allow him free ingress thereto and afford all reasonable facilities for a search therein.]

(4) If ingress into such building or place cannot be so obtained it shall be lawful for ⁶[the authorised officer] executing the authority, with such assistance of police officers ⁷[or of officers of the Central Government, or of both,] as may be required, to enter such building or place and search therein and in order to effect an entrance into such building or place, to break open any outer or inner door or window of any building or place, whether that of the person to be searched or of any other person, if after notification of his authority and purpose and demand of admittance duly made, he cannot otherwise obtain admittance :

Provided that, if any such building or place is an apartment in actual occupancy of a woman, who according to custom does not appear in public, ⁶[the authorised officer] shall, before entering such apartment, give notice to such woman that she is at liberty to withdraw and shall afford her every reasonable facility for withdrawing and may then break open the apartment and enter it.

⁸[(4A) If ingress into any vessel, vehicle or aircraft authorised to be searched cannot be obtained because such vessel, vehicle or aircraft is moving or for any other reason, it shall be lawful for the authorised officer with such assistance of police officers or of officers of the Central Government, or of both, as may be required, to stop any such vessel or vehicle or, in the case of an aircraft, compel it to stop or land, and search any part of the vessel, vehicle or aircraft; and in order to effect an entrance into such vessel, vehicle or aircraft, to break open any outer or inner door or window of any such vessel, vehicle or aircraft, whether that of the person to be searched or of any other person, if after notification of his authority and purpose and demand of admittance duly made, he cannot otherwise obtain admittance :

Provided that if any such vessel, vehicle or aircraft is occupied by a woman, who according to custom does not appear in public, the authorised officer shall, before entering such vessel, vehicle or aircraft, give notice to such woman that she is at liberty to withdraw and shall afford her every reasonable facility for withdrawing.]

6. Substituted for "the Inspecting Assistant Commissioner or the Income-tax Officer" by the IT (Fifth Amdt.) Rules, 1965.

7. Inserted by the IT (Second Amdt.) Rules, 1965.

8. Inserted by the IT (Fourth Amdt.) Rules, 1975, w.e.f. 1-10-1975.

(Contd. from p. 1.55)

v. *CIT* [1964] 51 ITR 329 (Ker.)/ *Vishwanath Bhaskar Sathe v. CIT* 10 ITC 386 (Bom.)/ *CIT v. India Tea & Timber Trading Co.* [1996] 221 ITR 857 (Gauhati). User of machinery for trial production constitutes user for purpose of business - *CIT v. Union Carbide (I) Ltd.* [2002] 124 Taxman 859/254 ITR 488 (Cal.)/ *CIT v. Mentha & Allied Products* [2010] 326 ITR 297 (All.). [Contrary view : 'User' means actual use and not passive use - *CIT v. Suhrid Geigy Ltd.* [1982] 133 ITR 884 (Guj.)/ *CIT v. Jiwaji Rao Sugar Co. Ltd.* [1969] 71 ITR 319 (MP)/ *Bhikaji Venkatesh v. CIT* [1937] 5 ITR 626 (Nag.)/ *CIT v. J.K. Transport* [1998] 231 ITR 798 (MP)/ *Dy. CIT v. Yellamma Dassappa Hospital* [2007] 159 Taxman 58 (Kar.). 'User' denotes actually used and not merely ready to use - *Dinesh Kumar Gulabchand Agrawal v. CIT* [2004] 267 ITR 768/141 Taxman 62 (Bom.). 'Use' must be during the relevant accounting year - *Liquidators of Pursa Ltd. v. CIT* [1954] 25 ITR 265 (SC)/ *Central Provinces Manganese Ore Co. Ltd. v. CIT* [1937] 5 ITR 734 (Nag.). Asset need not be used throughout the year - *CIT v. S.K. Sahana & Sons* [1946] 14 ITR 106 (Pat.)/ *CIT v. Motors & General Stores Ltd.* [1946] 14 ITR 130 (Mad.)/ *CIT v. Dalmia Cement Ltd.* [1945] 13 ITR 415 (Pat.). Owner need not necessarily be the user - *CIT v. Sarveshwar Nath Nigam* [1963] 48 ITR 853 (Punj.)/ *CIT v. Associated Cement Co. Ltd.* [1968] 68 ITR 478 (Bom.). It is not requirement of section 32 that depreciation claim in respect of any asset has to be allowed only if it continues to be used for purposes for which it was being used earlier - *CIT v. Udaipur Distillery Co. Ltd. (No. 2)* [2004] 135 Taxman 487/268 ITR 446 (Raj.). When the assessee *bona fide* install any machinery and, to his misfortune, it becomes defective and non-functional, it cannot be said that the machinery is not put into use for the purpose of business - *CIT v. Sri Chamundeswari Sugar Ltd.* [2009] 183 Taxman 285 (Kar.). The expression 'used for the purpose of business' when used with respect to discarded machinery would mean that the user in business is not in the relevant financial year but in the earlier financial years - *CIT v. Yamaha Motor India (P.) Ltd.* [2009] 183 Taxman 291 (Delhi). A commercial asset capable of being exploited by more than one person will remain a commercial asset even if it is temporarily put out of use or hired out - *CIT v. Hindusthan Aluminium Corporation Ltd.* [1989] 176 ITR 206 (Cal.). Steps taken to set a completed building into gear before shifting the business would be nothing but putting it to 'use' - *CIT v. O.P. Khanna & Sons* [1983] 140 ITR 558 (Punj. & Har.). Where business is set up, depreciation cannot be denied on the ground that commercial production has not commenced - *CIT v. Kanoria General Dealers (P.) Ltd.* [1986] 159 ITR 524 (Cal.). Existence of asset is essential, and hence depreciation cannot be allowed on asset which was destroyed - *E.I.D. Parry Ltd. v. CIT* 1996 Tax LR 648 (Mad.). Where asset is used partly for business and partly for private purposes, depreciation proportionate to business use is to be allowed - *CIT v. Sobharam Jokhiram* [1960] 39 ITR 299 (Pat.). *Kolhus* and *Karhais* are entitled to depreciation for full year even if they are let out for a part of the year - *CIT v. Sarveshwar Nath Nigam* [1963] 48 ITR 853 (Punj.), *CIT v. Banarsi Dass & Sons* [1966] 61 ITR 414 (Punj.). Depreciation is admissible on business assets leased out - *Sadhucharan Roy Chowdhury, In re* [1935] 3 ITR 114 (Cal.)/ *Mangalagiri Sri Umamaheswara Gin & Rice Factory Ltd. v. CIT* 2 ITC 251 (Mad.). Depreciation is admissible on buildings and furniture let out in the course of carrying on hotel business - *CIT v. Bosotto Bros. Ltd.* [1940] 8 ITR 41 (Mad.). Assessee engaged in leasing out generators is entitled to claim depreciation on generators not returned after expiry of lease period due to lock-out in lessee's factory - *Hindustan Gas & Industries Ltd. v. CIT* [1995] 79 Taxman 151 (Cal.). Depreciation is admissible on assets under repairs - *CIT v. G.N. Agrawal* [1994] 75 Taxman 30 (Bom.)/ *Khimji Visram & Sons (Gujarat) (P.) Ltd. v. CIT* [1994] 209 ITR 993 (Guj.). Where factory was under lock-out during entire previous year, depreciation is not admissible - *CIT v. Oriental Coal Co. Ltd.* [1994] 206 ITR 682 (Cal.). Assessee was entitled to depreciation on its R&D assets though part of assessee's business remained closed during relevant previous year - *CIT v. Udaipur Distillery Co. Ltd. (No. 3)* [2004] 134 Taxman 616/268 ITR 451 (Raj.).

If the block of assets acquired by the assessee-company during the previous year is applied or employed for the purpose of business of the assessee in that previous year for 180 days, that would make the assessee eligible for full depreciation. The expression 'put to use' in proviso to section 32(1) does not mean 'exploited for 180 days'. The machinery could not be used on all days and every day, right through the year from the date on which it is first put to use. There may be normal working hours even during a day. There may be holidays intervening the 180 days. If the depreciation allowance is to be calculated only with reference

(Contd. on p. 1.57)

Provided further that the undertaking specified in clause (i) of sub-section (1) of section 32 of the Act may, instead of the depreciation specified in Appendix IA, at its option, be allowed depreciation under sub-rule (1) read with Appendix I, if such option is exercised before the due date for furnishing the return of income under sub-section (1) of section 139 of the Act,

- (a) for the assessment year 1998-99, in the case of an undertaking which began to generate power prior to 1st day of April, 1997; and
- (b) for the assessment year relevant to the previous year in which it begins to generate power, in case of any other undertaking :

(Contd. from p. 1.56)

to the actual time or day the machinery was actually used, the provision for depreciation will lose its significance - *SIV Industries Ltd. v. Dy. CIT*[2008] 306 ITR 114 (Mad.). User condition when applied to block of assets, it would mean use of block of assets and not any specific building, machinery, plant or furniture in said block of assets - *CIT v. Bharat Aluminium Co. Ltd.* [2010] 187 Taxman 111 (Delhi)/ *Goetze (India) Ltd. v. Dy. CIT* [2008] 25 SOT 171 (Delhi - Trib.). Once the asset is part of block of assets and depreciation is granted on that block, it cannot be denied in the subsequent year on the ground that one of the assets was not used by the assessee in some of the years. The user of the assets has to apply to the block as a whole instead of individual assets. - *Unitex Products Ltd. v. ITO*[2008] 22 SOT 429 (Mum. - Trib.). User criteria is to be fulfilled at time when an asset is to form part of block of assets and once asset is part of block of assets, it loses its individual cost or written down value and thereafter depreciation is allowable on entire block of assets - *Asstt. CIT v. SRF Ltd.* [2008] 21 SOT 122 (Delhi - Trib.).

OTHERS : Where income is estimated at flat rate, depreciation is separately allowable - *CIT v. Bishambhar Dayal & Co.* [1994] 74 Taxman 123 (All.). In tea business, only 40 per cent of the depreciation is deductible while computing written down value - *CIT v. Suman Tea & Plywood Industries (P.) Ltd.* [1993] 204 ITR 719 (Cal.). Assets acquired under hire-purchase are eligible for depreciation, subject to certain conditions - *Circular No. 9, dated 23-3-1943* read with *Letter F. No. 27 (20)-IT/59, dated 26-6-1959*. Under hire purchase agreement, depreciation is allowable to the user - *CIT v. Nagpur Golden Transport Co.* [1998] 233 ITR 389 (Delhi). Foreign motor cars used in package tours by tour operators or travel agents are eligible for depreciation - *Circular No. 609, dated 29-7-1991*. Fittings in employees' residences are eligible for depreciation - *Letter F. No. 10/14/66 - IT(A-I), dated 12-12-1966*. Law as it stands on 1st April of the relevant financial year must be applied - *CIT v. Mirza Ataullah Baig* [1993] 202 ITR 291 (Bom.)/ *S.P. Jaiswal Estates (P.) Ltd. v. CIT* [1994] 75 Taxman 298 (Cal.)/ *CIT v. S. Palaniswamy* [1996] 219 ITR 380 (Mad.). Depreciation on assets acquired in earlier years for which no rate was prescribed in those years can be claimed in a later year after rate is prescribed - *CIT v. Shri Vallabh Glass Works Ltd.* [1994] 207 ITR 963 (Guj.). Where assessee purchases trucks for which payment is made partly out of own funds and balance out of loan repayable in monthly instalments, property in the vehicles passes on to the assessee as soon as sale is made - *CIT v. Mirza Ataullah Baig* [1994] 76 Taxman 495 (Bom.). Improvements of a permanent nature made to house properties taken on lease by an assessee whose main business was taking such properties on lease and renting them out, are assets entitling to depreciation - *CIT v. Chandra Agro (P.) Ltd.* [1979] 117 ITR 251 (All.). Where assessee had by an agreement with vendor purchased an undertaking and also had taken over accrued and future gratuity liability of vendor for a consideration, assessee's claim that since amount towards gratuity was capital expenditure, it was entitled to depreciation on said sum, was not allowable since gratuity liability taken over by assessee did not fall under any of categories specified in section 32 - *CIT v. Hoogly Mills Co. Ltd.* [2006] 157 Taxman 347/287 ITR 333 (SC). Where assessee has not claimed depreciation on assets in earlier years under the belief that its activities are agricultural in nature, but in a later year, such activities were held as non-agricultural, assessee can claim depreciation on the original actual cost and not on any notional cost - *CIT v. Hybrid Rice International (P.) Ltd.* [2009] 185 Taxman 25 (Delhi). For details, see Taxmann's Master Guide to Income-tax Rules.

86. Inserted by the IT (Twelfth Amdt.) Rules, 1997, w.r.e.f. 2-4-1997.

Provided also that any such option once exercised shall be final and shall apply to all the subsequent assessment years.]

(2) Where any new machinery or plant is installed during the previous year relevant to the assessment year commencing on or after the 1st day of April, 1988, for the purposes of business of manufacture or production of any article or thing and such article or thing—

(a) is manufactured or produced by using any technology (including any process) or other know-how developed in, or

(b) is an article or thing invented in,

a laboratory owned or financed by the Government or a laboratory owned by a public sector company or a University or an institution recognised in this behalf by the Secretary, Department of Scientific and Industrial Research, Government of India,

such plant or machinery shall be treated as a part of block of assets qualifying for depreciation at the rate of ⁸⁷[40] per cent of written down value, if the following conditions are fulfilled, namely :—

(i) the right to use such technology (including any process) or other know-how or to manufacture or produce such article or thing has been acquired from the owner of such laboratory or any person deriving title from such owner ;

(ii) the return furnished by the assessee for his income, or the income of any other person in respect of which he is assessable, for any previous year in which the said machinery or plant is acquired, shall be accompanied by a ⁸⁸certificate from the Secretary, Department of Scientific and Industrial Research, Government of India, to the effect that such article or thing is manufactured or produced by using such technology (including any process) or other know-how developed in such laboratory or is an article or thing invented in such laboratory ; and

(iii) the machinery or plant is not used for the purpose of business of manufacture or production of any article or thing specified in the list in the Eleventh Schedule to the Act.

Explanation : For the purposes of this sub-rule,—

(a) “laboratory financed by the Government” means a laboratory owned by any body [including a society registered under the Societies Registration Act, 1860 (21 of 1860)], and financed wholly or mainly by the Government ;

(b) “public sector company” means any corporation established by or under any Central, State or Provincial Act or a Government company⁸⁹ as defined in section 617 of the Companies Act, 1956 (1 of 1956) ; and

87. Substituted for “50” by the IT (Tenth Amdt.) Rules, 1991, w.e.f. 1-4-1992.

88. See Press Release containing guidelines for issue of certificate. For details, see Taxmann’s Master Guide to Income-tax Rules.

89. Section 617 of the Companies Act, 1956, defines “Government company” as follows :

‘For the purposes of this Act, “Government company” means any company in which not less than fifty-one per cent of the paid-up share capital is held by the Central Government, or by any State Government or Governments, or partly by the Central Government and partly by one or more State Governments and includes a company which is a subsidiary of a Government company as thus defined.’

(c) "University" means a University established or incorporated by or under a Central, State or Provincial Act and includes an institution declared under section 3 of the University Grants Commission Act, 1956 (3 of 1956), to be a University for the purposes of that Act.]

⁹⁰**[Form of report by an accountant for claiming deduction under section 32(1)(ia)].**

5A. The report from an accountant which is required to be furnished by the assessee under the third proviso to clause (ia) of sub-section (1) of section 32 shall be in Form No. 3AA.]

⁹¹⁹²**Prescribed authority for investment allowance.**

⁹³**[5AA.]** For the purposes of sub-section (2B) of section 32A, the "prescribed authority" shall be the Secretary, Department of ⁹⁴[Scientific and Industrial Research], Government of India.]

⁹⁵**[Report of audit of accounts to be furnished under section 32AB(5)].⁹⁶**

5AB. The report of audit of the accounts of an assessee, which is required to be furnished under sub-section (5) of section 32AB shall be in ⁹⁷[Form No. 3AAA.]]

⁹⁸**[Report of audit of accounts to be furnished under section 33AB(2)].**

5AC. The report of audit of the accounts of an assessee, which is required to be furnished under sub-section (2) of section 33AB shall be in Form No. 3AC.]

⁹⁹**[Report of audit of accounts to be furnished under section 33ABA(2)].**

5AD. The report of audit of the accounts of an assessee, which is required to be furnished under sub-section (2) of section 33ABA, shall be in Form No. 3AD.]

¹**[Development rebate].²**

5B. The deduction to be allowed by way of development rebate in respect of any ship or machinery or plant referred to in sub-section (1A) of section 33 shall be a sum equivalent to—

³[(a) in the case of any such ship—

(i) where the ship is acquired by the assessee at any time before the expiry of seven years from the date she was built, thirty per cent of the actual cost of the ship to the assessee ; and

90. Inserted by the IT (Fourteenth Amdt.) Rules, 2002, w.e.f. 1-4-2003.

91. Inserted as rule 5A by the IT (Fifth Amdt.) Rules, 1977, w.e.f. 1-4-1978.

92. See section 295(2)(g). No investment allowance is available *qua* machinery installed after 31-3-1990 - see SO 233(E), dated 19-3-1990.

93. Existing rule 5A renumbered as rule 5AA by the IT (Fourteenth Amdt.) Rules, 2002, w.e.f. 1-4-2003. Rule 5AA was originally inserted by the IT (Amdt.) Rules, 1981, w.e.f. 1-4-1981 and later on omitted by the IT (Third Amdt.) Rules, 1987, w.e.f. 2-4-1987.

94. Substituted for "Science and Technology" by the IT (Seventh Amdt.) Rules, 1985, w.e.f. 6-1-1985.

95. Inserted by the IT (Sixth Amdt.) Rules, 1986, w.e.f. 1-4-1987.

96. Deduction under section 32AB was available only for the assessment years 1987-88 to 1990-91.

97. Substituted for "Form No. 3AA" by the IT (Fourteenth Amdt.) Rules, 2002, w.e.f. 1-4-2003.

98. Inserted by the IT (Second Amdt.) Rules, 1992, w.e.f. 14-1-1992.

99. Inserted by the IT (Twenty-fourth Amdt.) Rules, 1999, w.e.f. 30-6-1999.

1. Inserted by the IT (Amdt.) Rules, 1965 as rule 5A and later renumbered by the IT (Fifth Amdt.) Rules, 1977, w.e.f. 1-4-1978.

2. No rebate is available *qua* machinery installed after 31-5-1974.

3. Substituted by the IT (Sixth Amdt.) Rules, 1965.

- (i) in any other case, twenty per cent of the actual cost of the ship to the assessee ;]
- (b) in the case of any such machinery or plant installed after the 31st day of March, 1964—
 - (i) where it is installed before the 1st day of April, 1966, for the purposes of business of mining coal, twenty per cent of the actual cost of the machinery or plant to the assessee ; and
 - (ii) in any other case, ten per cent of the actual cost of the machinery or plant to the assessee.

Explanation : In this rule, “actual cost” shall have the meaning assigned to it in clause (1) of section 43.]

⁴[**Guidelines, form and manner in respect of approval under clause (ii) and clause (iii) of sub-section (1) of section 35.**

5C. (1) An application for approval,—

- (i) under clause (i) ^{4a}[or clause (iii)] of sub-section (1) of section 35 by a ^{4b}[***] research association in duplicate in Form No. 3CF-I;
- (ii) under clause (ii) or clause (iii) of sub-section (1) of section 35 by a university, college or other institution in duplicate in Form No. 3CF-II,

shall be made, at any time during the financial year immediately preceding the assessment year from which the approval is sought, to the Commissioner of Income-tax or the Director of Income-tax having jurisdiction over the applicant.

(2) Annexure to the application [in] Form No. 3CF-I shall be filled out if the association claims exemption under clause (21) of section 10 of the Income-tax Act.

(3) The applicant shall send a copy of the application in Form No. 3CF-I or, as the case may be, Form No. 3CF-II to Member (IT), Central Board of Direct Taxes accompanied by the acknowledgement receipt as evidence of having furnished the application form in duplicate in the office of the Commissioner of Income-tax or the Director of Income-tax having jurisdiction over the case.

(4) The period of one year, as specified in the fourth proviso to sub-section (1) of section 35, before the expiry of which approval is to be granted or the application is to be rejected by the Central Government shall be reckoned from the end of the month in which the application form from the applicant for approval is received in the office of Member (IT), Central Board of Direct Taxes.

(5) If any defect is noticed in the application in Form No. 3CF-I or Form No. 3CF-II or if any relevant document is not attached thereto, the Commissioner of Income-tax or, as the case may be, the Director of Income-tax shall serve a deficiency letter on the applicant before the expiry of one month from the date of receipt of the application form in his office.

(6) The applicant shall remove the deficiency within a period of fifteen days from the date of service of the deficiency letter or within such further period which, on an application made in this behalf may be extended, so however, that the total period for removal of deficiency does not exceed thirty days, and if the applicant fails to remove the deficiency within the period of thirty days so allowed, the Commissioner of Income-tax or, as the case may be, the Director of Income-tax shall

4. Rules 5C to 5E inserted by the IT (Twelfth Amdt.) Rules, 2006, w.e.f. 30-10-2006.

4a. Inserted by the IT (Fourth Amdt.) Rules, 2011, w.e.f. 5-4-2011.

4b. Word “scientific” omitted, *ibid.*

send his recommendation for treating the application as invalid to the Member (IT), Central Board of Direct Taxes.

(7) The Central Government, if satisfied, may pass an order treating the application as invalid.

(8) If the application form is complete in all respects, the Commissioner of Income-tax or, as the case may be, the Director of Income-tax, may make such inquiry as he may consider necessary regarding the genuineness of the activity of the association or university or college or other institution and send his recommendation to the Member (IT) for grant of approval or rejection of the application before the expiry of the period of three months to be reckoned from the end of the month in which the application form was received in his office.

(9) The Central Government may before granting approval under clause (ii) or clause (iii) shall call for such documents or information from the applicant as it may consider necessary and may get any inquiry made for verification of the genuineness of the activity of the applicant.

(10) The Central Government may, under sub-section (1) of section 35, issue the notification to be published in the Official Gazette granting approval to the association or university or college or other institution or for reasons to be recorded in writing reject the application.

(11) The Central Government may withdraw the approval granted under clause (ii) or clause (iii) of sub-section (1) of section 35 if it is satisfied that the ^{4c}[***] research association or university or college or other institution has ceased its activities or its activities are not genuine or are not being carried out in accordance with all or any of the conditions under rule 5D or rule 5E.

(12) No order treating the application as invalid or rejecting the application or withdrawing the approval, shall be passed without giving a reasonable opportunity of being heard to the ^{4c}[***] research association or university or college or other institution.

(13) A copy of the order invalidating or rejecting the application or withdrawing the approval shall be communicated to the applicant, the Assessing Officer and the Commissioner of Income-tax or, as the case may be, the Director of Income-tax.

⁵[Conditions subject to which approval is to be granted to a research association under clause (ii) or clause (iii) of sub-section (1) of section 35.]

5D. (1) *The sole object of the applicant research association shall be to undertake scientific research or research in social science or statistical research as the case may be.*

(2) *The applicant research association shall carry on the research activity by itself.*

(3) *The research association seeking approval under clause (ii) or clause (iii) of sub-section (1) of section 35 shall maintain books of account and get such books audited by an accountant as defined in the Explanation to sub-section (2) of section 288 and furnish the report of such audit duly signed and verified by such accountant to the*

4c. Word "scientific" omitted by the IT (Fourth Amdt.) Rules, 2011, w.e.f. 5-4-2011.

5. Substituted, *ibid.* Earlier rule 5D was inserted by the IT (Twelfth Amdt.) Rules, 2006, w.e.f. 30-10-2006 and amended by the IT (Second Amdt.) Rules, 2009, w.e.f. 1-4-2009.

Commissioner of Income-tax or the Director of Income-tax having jurisdiction over the case, by the due date of furnishing the return of income under sub-section (1) of section 139.

(4) The research association shall maintain a separate statement of donations received and amount applied for scientific research or research in social science or statistical research and a copy of such statement duly certified by the auditor shall accompany the report of audit referred to in sub-rule (3).

(5) The research association shall, by the due date of furnishing the return of income under sub-section (1) of section 139, furnish a statement to the Commissioner of Income-tax or Director of Income-tax containing—

- (i) a detailed note on the research work undertaken by it during the previous year;*
- (ii) a summary of research articles published in national or international journals during the year;*
- (iii) any patent or other similar rights applied for or registered during the year;*
- (iv) programme of research projects to be undertaken during the forthcoming year and the financial allocation for such programme.*

(6) If the Commissioner of Income-tax or the Director of Income-tax is satisfied that the research association,—

- (a) is not maintaining books of account, or*
- (b) has failed to furnish its audit report, or*
- (c) has not furnished its statement of the sums received and the sums applied for scientific research or research in social science or statistical research or a statement referred to in sub-rule (5), or*
- (d) has ceased to carry on its research activities, or its activities are not genuine, or*
- (e) is not fulfilling the conditions subject to which approval was granted to it, he may after making appropriate enquiries furnish a report on the circumstances referred to in clauses (a) to (e) above to the Central Government within six months from the date of furnishing the return of income under sub-section (1) of section 139.]*

Conditions subject to which approval is to be granted to a University, College or other Institution under clause (ii) and clause (iii) of sub-section (1) of section 35.

5E. (1) The sum paid to a university, college or other institution shall be used for scientific research and research in social science or statistical research.

(2) The applicant university, college or other institution shall carry out scientific research, research in social science or statistical research through its faculty members or its enrolled students.

(3) A university or college or other institution approved under clause (ii) or clause (iii) of sub-section (1) of section 35 shall maintain separate books of account in respect of the sums received by it for scientific research or, as the case may be, for research in social science or statistical research, reflect therein the amount used for carrying out research, get such books of account audited by an accountant, as defined in the *Explanation* to sub-section (2) of section 288 and furnish the report of such audit duly signed and verified by such accountant to the Commissioner of

Income-tax or the Director of Income-tax having jurisdiction over the case, by the due date of furnishing the return of income under sub-section (1) of section 139.

(4) The university or college or other institution shall maintain a separate statement of donations received and the amount used for research and a copy of such statement duly certified by the auditor shall accompany the report of audit referred to in sub-rule (3).

⁶[(4A) The university, college or other institution shall, by the due date of furnishing the return of income under sub-section (1) of section 139, furnish a statement to the Commissioner of Income-tax or Director of Income-tax containing—

- (i) a detailed note on the research work undertaken by it during the previous year;
- (ii) a summary of research articles published in national or international journals during the year;
- (iii) any patent or other similar rights applied for or registered during the year;
- (iv) programme of research projects to be undertaken during the forthcoming year and the financial allocation for such programme.]

(5) If the Commissioner of Income-tax or the Director of Income-tax is satisfied that the university or college or other institution,—

- (a) is not maintaining separate books of account for research activities, or
- (b) has failed to furnish its audit report, or
- (c) has not furnished its statement of the sums received and the sums used for research ⁶[or a statement referred to in sub-rule (4A)], or
- (d) has ceased to carry on its research activities, or its activities are not genuine, or
- (e) is not fulfilling the conditions subject to which approval was granted to it,

he may after making appropriate enquiries furnish a report on the circumstances referred to in clauses (a) to (e) above to the Central Government within six months from the date of furnishing the return of income under section 139(1).]

⁷[**Prescribed authority, guidelines, form, manner and conditions for approval under clause (ia) of sub-section (1) of section 35.**

5F. (1) For the purposes of clause (ia) of sub-section (1) of section 35, the prescribed authority shall be the Chief Commissioner of Income-tax having jurisdiction over the applicant.

(2) Guidelines, form and manner in respect of approval under clause (ia) of sub-section (1) of section 35 shall be as under :—

- (a) An application for approval under clause (ia) of sub-section (1) of section 35 by a company shall be made in duplicate in Form No. 3CF-III, to the Commissioner of Income-tax having jurisdiction over the applicant, at any time during the financial year immediately preceding the assessment year from which the approval is sought.
- (b) The applicant shall send a copy of the application in Form No. 3CF-III to the prescribed authority, accompanied by the acknowledgement receipt

6. Inserted by the IT (Second Amtd.) Rules, 2009, w.e.f. 1-4-2009.

7. Inserted by the IT (Tenth Amtd.) Rules, 2008, w.e.f. 1-4-2009.

as evidence of having furnished the application form in duplicate in the Office of the Commissioner of Income-tax having jurisdiction over the case.

- (c) Every notification under clause (iia) of sub-section (1) of section 35 shall be issued or an order rejecting the application shall be passed within a period of twelve months from the end of the month in which the application was received in the Office of the Chief Commissioner of Income-tax.
- (d) If any defect is noticed in the application in Form No. 3CF-III or if any relevant document is not attached thereto, the Commissioner of Income-tax shall serve a deficiency letter on the applicant before the expiry of one month from the date of receipt of the application form in his office.
- (e) The applicant shall remove the deficiency within a period of fifteen days from the date of service of the deficiency letter or within such further period which, on an application made in this behalf may be extended, so however, that the total period for removal of deficiency does not exceed thirty days, and if the applicant fails to remove the deficiency within the period of thirty days so allowed, the Commissioner of Income-tax shall send his recommendation to the Chief Commissioner of Income-tax for treating the application as invalid.
- (f) The Chief Commissioner of Income-tax may, after examining the recommendations referred to in clause (e), pass an order that the application is invalid.
- (g) If the application form is complete in all respects, the Commissioner of Income-tax may, make such inquiry as he may consider necessary regarding the genuineness of the activity of the company and send his recommendation to the Chief Commissioner of Income-tax for grant of approval or rejection of the application before the expiry of the period of three months to be reckoned from the end of the month in which the application form was received in his office.
- (h) The Chief Commissioner of Income-tax may, before granting approval under clause (iia) of sub-section (1) of section 35, call for such documents or information from the applicant as it considers necessary and may get any inquiry made for verification of the genuineness of the activity of the applicant.
- (i) The Chief Commissioner of Income-tax may, under sub-section (1) of section 35, issue the notification to be published in the Official Gazette granting approval to the company or for reasons to be recorded in writing reject the application.
- (j) The Chief Commissioner of Income-tax may withdraw the approval granted under clause (iia) of sub-section (1) of section 35 if he is satisfied that the company has ceased to carry on its activities or its activities are not genuine or are not being carried on in accordance with all or any of the conditions under this rule :

Provided that no order treating the application as invalid or rejecting the application or withdrawing the approval shall be passed without giving a reasonable opportunity of being heard to the company.

(k) A copy of the order invalidating or rejecting the application or withdrawing the approval shall be communicated to the applicant, the Assessing Officer and the Commissioner of Income-tax.

(3) Approval to a company under clause (iia) of sub-section (1) of section 35 shall be subject to the following conditions, namely :—

- (a) The sum paid to the company shall be used for scientific research;
- (b) The applicant company shall carry on scientific research through its own employees using its own assets;
- (c) A company approved under clause (iia) of sub-section (1) of section 35 shall maintain separate books of account in respect of the sums received by it for scientific research, reflect therein the amount used for carrying on research, get such books of account audited by an accountant, and furnish the report of such audit duly signed and verified by such accountant to the Commissioner of Income-tax having jurisdiction over the case, by the due date of furnishing the return of income under sub-section (1) of section 139.

Explanation.—For the purpose of this clause “accountant” shall have the same meaning as assigned to it in *Explanation* to sub-section (2) of section 288 of the Act;

- (d) The company shall maintain a separate statement of donations received and the amount used for research and a copy of such statement duly certified by the auditor shall accompany the report of audit referred to in sub-rule (3).
- (e) Subsequent to approval, the company shall, every year, by the due date of furnishing the return of income under sub-section (1) of section 139, furnish a statement to the Commissioner of Income-tax containing the following information, namely :—
 - (i) a detailed note on the research work undertaken by it during the previous year;
 - (ii) a summary of research articles published in national or international journals during the year;
 - (iii) any patents or other similar rights applied for or registered during the year;
 - (iv) programme of research projects to be undertaken during the forthcoming year and the financial allocation for such subjects.
- (f) If the Commissioner of Income-tax is satisfied that the company,—
 - (i) is not maintaining separate books of account for research activities, or
 - (ii) has failed to furnish its audit report, or
 - (iii) has not furnished its statement of the sums received and the sums used for research, or a statement referred to in sub-clause (e), or
 - (iv) has ceased to carry on its research activities, or its activities are not genuine, or

(v) is not fulfilling the conditions subject to which approval was granted to it,

he may after making appropriate enquiries, furnish a report on the circumstances referred to in sub-clauses (i) to (v) to the jurisdictional Chief Commissioner of Income-tax within six months from the date of furnishing the return of income under sub-section (1) of section 139.]

⁸[**Prescribed authority**⁹ for expenditure on scientific research.

6. (1) For the purposes of ¹⁰[¹¹[clause (i) of] sub-section (1) and sub-section (2A) of] section 35, the prescribed authority shall be the Director General (Income-tax Exemptions) in concurrence with the Secretary, Department of Scientific and Industrial Research, Government of India.

¹²[(1A) For the purposes of sub-section (2AA) of section 35, the prescribed authority shall be—

- (a) in the case of a National Laboratory or a University or an Indian Institute of Technology, the head of the National Laboratory or the University or the Indian Institute of Technology, as the case may be; and
- (b) in the case of a specified person, the Principal Scientific Adviser to the Government of India.]

¹³[(1B) For the purposes of sub-section (2AB) of section 35, the prescribed authority shall be the Secretary, Department of Scientific and Industrial Research.]

(2) ¹⁴[***]]

¹⁵[(3) The application for obtaining approval under sub-section (2AA) of section 35 shall be made by a sponsor in Form No. 3CG.

8. Substituted by the IT (Eighth Amdt.) Rules, 1989, w.e.f. 23-8-1989. Prior to its substitution, rule 6, as amended by the IT (Second Amdt.) Rules, 1971, IT (Fifth Amdt.) Rules, 1974, IT (Seventh Amdt.) Rules, 1977, IT (Sixth Amdt.) Rules, 1980, IT (Fourth Amdt.) Rules, 1982, w.e.f. 1-6-1982 and IT (Seventh Amdt.) Rules, 1985, w.e.f. 6-1-1985, read as under :

*'6. Prescribed authority for scientific research.—*For the purposes of section 35, the "prescribed authority" shall be the Secretary, Department of Scientific and Industrial Research, Government of India :

Provided that every application for approval pending on or before the 1st day of June, 1982, with any authority, other than the said Secretary, shall stand transferred to the said Secretary for disposal.'

9. See section 295(2)(g).

10. Inserted by the IT (Ninth Amdt.) Rules, 1996, w.r.e.f. 1-10-1996.

11. Inserted by the IT (Twenty-second Amdt.) Rules, 1999, w.e.f. 25-6-1999.

12. Substituted by the IT (Eighteenth Amdt.) Rules, 2001, w.e.f. 8-8-2001. Prior to its substitution, sub-rule (1A), as inserted by the IT (Ninth Amdt.) Rules, 1996, w.r.e.f. 1-10-1996, read as under :

"(1A) For the purposes of sub-section (2AA) of section 35, the prescribed authority shall be the head of the National Laboratory or the University or the Indian Institute of Technology, as the case may be."

13. Inserted by the IT (Fifth Amdt.) Rules, 1998, w.e.f. 1-4-1998.

14. Omitted by the IT (Twelfth Amdt.) Rules, 2006, w.e.f. 30-10-2006. Prior to omission, sub-rule (2), read as under:

"(2) The application required to be furnished by a scientific or industrial research organisation or institution under clause (i) or (iii) of sub-section (1) of section 35 shall be in Form No. 3CF."

15. Inserted by the IT (Sixteenth Amdt.) Rules, 1993, w.e.f. 15-9-1993.

Explanation : For the purposes of this rule “sponsor” means a person who makes an application in Form No. 3CG.]

¹⁶[(4) The application required to be furnished by a company under sub-section (2AB) of section 35 shall be in Form No. 3CK.]

¹⁷[(5) The head of the National Laboratory or the University or the Indian Institute of Technology ¹⁸[or the Principal Scientific Adviser to the Government of India] shall, if he is satisfied that it is feasible to carry out the scientific research programme then, subject to other conditions prescribed in this rule and section 35(2AA) of the Act, pass an order in writing in Form No. 3CH :

Provided *that a reasonable opportunity of being heard shall be granted to the sponsor before rejecting an application :

Provided further that an order under this rule shall be passed within two months of the receipt of the application under sub-rule (1A) :]

¹⁹[**Provided also** that the Principal Scientific Adviser to the Government of India may authorise an officer who is not below the rank of a Deputy Secretary to issue such order, after the scientific research programme has been approved by him.]

²⁰[(5A) The prescribed authority shall, if he is satisfied that the conditions provided in this rule and in sub-section (2AB) of section 35 of the Act are fulfilled, pass an order in writing in Form No. 3CM :

Provided that a reasonable opportunity of being heard shall be granted to the company before rejecting an application.]

²¹[* * *]

16. Inserted by the IT (Fifth Amdt.) Rules, 1998, w.e.f. 1-4-1998. Earlier, sub-rule (4), as inserted by the IT (Sixteenth Amdt.) Rules, 1993, w.e.f. 15-9-1993 and later on omitted by the IT (Ninth Amdt.) Rules, 1996, w.r.e.f. 1-10-1996, read as under :

“(4) The Secretary, Department of Scientific and Industrial Research shall, within eight weeks of the receipt of an application in Form No. 3CG, communicate his decision on each application to the Director General (Income-tax Exemptions).”

17. Substituted by the IT (Ninth Amdt.) Rules, 1996, w.r.e.f. 1-10-1996. Prior to its substitution, sub-rule (5), as inserted by the IT (Sixteenth Amdt.) Rules, 1993, w.e.f. 15-9-1993, read as under :

“(5) The Director General (Income-tax Exemptions) shall within four weeks of the receipt of the decision conveyed by the Secretary, Department of Scientific and Industrial Research, issue an order of approval of programme in Form No. 3CH.”

18. Inserted by the IT (Eighteenth Amdt.) Rules, 2001, w.e.f. 8-8-2001.

19. Inserted by the IT (Twelfth Amdt.) Rules, 2004, w.e.f. 25-10-2004.

20. Inserted by the IT (Fifth Amdt.) Rules, 1998, w.e.f. 1-4-1998.

21. Second proviso omitted by the IT (Twenty-sixth Amdt.) Rules, 1999, w.e.f. 5-7-1999. Prior to its omission, second proviso, as inserted by the IT (Fifth Amdt.) Rules, 1998, w.e.f. 1-4-1998, read as under :

“**Provided further** that an order under this rule shall be passed within two months of the receipt of application under sub-rule (4).”

*“that” is provided by Editors.

²²[(6) The National Laboratory, ²³[University, Indian Institute of Technology or specified person] shall issue a receipt of payment for carrying out an approved programme of scientific research under sub-section (2AA) in Form No. 3CI.]

²⁴[(7) Approval of a programme under sub-section (2AA) shall be subject to the following conditions :—

- (a) The programme should not relate purely to market research, sales promotion, quality control, testing, commercial production, style changes, routine data collection or activities of a like nature ;
- (b) The prescribed authority shall submit its report to the Director General (Income-tax Exemptions) in Form No. 3CJ within a period of three months from the date of granting approval to the programme :
²⁵**Provided** that the officer authorised by the prescribed authority, being the Principal Scientific Adviser to the Government of India, under sub-rule (5) shall submit such report to the Director General (Income-tax Exemptions);]
- (c) The sponsor and the National Laboratory, ²⁶[University, Indian Institute of Technology or specified person], as the case may be, shall submit to the Director General (Income-tax Exemptions) a yearly statement showing progress of implementation of the approved programme and actuals of expenditure incurred thereon ;
- (d) The prescribed authority shall not extend the duration of the programme or approve any escalation in costs ;
- (e) The National Laboratory, ²⁶[University, Indian Institute of Technology or specified person], as the case may be, shall maintain a separate account for each approved programme ; which shall be audited annually and a copy thereof shall be furnished to the Director General (Income-tax Exemptions) by 31st day of October of each succeeding year;
- (f) Assets acquired by the prescribed authority for executing the approved programme shall not be disposed of without the approval of the Director General (Income-tax Exemptions);
- (g) On completion of the approved programme, a completion certificate along with a copy of the report on the research activities carried out and salient features of the result obtained and its further application for commercial exploitation shall be jointly submitted by the sponsor and the National Laboratory, ²⁶[University, Indian Institute of Technology or specified person] to the Director General (Income-tax Exemptions) ;

22. Inserted by the IT (Sixteenth Amdt.) Rules, 1993, w.e.f. 15-9-1993.

23. Substituted for "University or Indian Institute of Technology" by the IT (Eighteenth Amdt.) Rules, 2001, w.e.f. 8-8-2001. Earlier, the quoted words were inserted by the IT (Eleventh Amdt.) Rules, 1994, w.e.f. 23-11-1994.

24. Substituted by the IT (Ninth Amdt.) Rules, 1996, w.r.e.f. 1-10-1996. Prior to its substitution, sub-rule (7) was inserted by the IT (Sixteenth Amdt.) Rules, 1993, w.e.f. 15-9-1993 and later amended by the IT (Eleventh Amdt.) Rules, 1994, w.e.f. 23-11-1994.

25. Inserted by the IT (Twelfth Amdt.) Rules, 2004, w.e.f. 25-10-2004.

26. Substituted for "University or Indian Institute of Technology" by the IT (Eighteenth Amdt.) Rules, 2001, w.e.f. 8-8-2001.

- (h) A copy of the audited statement of accounts for the approved programme shall be submitted by the Head of the National Laboratory, University or Indian Institute of Technology ²⁷[or the Principal Scientific Adviser to the Government of India] to the Director General (Income-tax Exemptions) within six months of the completion of the programme.]

²⁸[(7A) Approval of expenditure incurred on in-house research and development facility by a company under sub-section (2AB) of section 35 shall be subject to the following conditions, namely :—

- (a) The facility should not relate purely to market research, sales promotion, quality control, testing, commercial production, style changes, routine data collection or activities of a like nature;
- (b) The prescribed authority shall submit its report in relation to the approval of in-house Research and Development facility in Form No. 3CL to the Director General (Income-tax Exemptions) within sixty days of its granting approval;
- (c) The company shall maintain a separate account for each approved facility; which shall be audited annually and a copy thereof shall be furnished to the Secretary, Department of Scientific and Industrial Research by 31st day of October of each succeeding year.

Explanation : For the purposes of this sub-rule the expression “audited” means the audit of accounts by an accountant, as defined in the *Explanation* below sub-section (2) of section 288 of the Income-tax Act, 1961;

- (d) Assets acquired in respect of development of scientific research and development facility shall not be disposed of without the approval of the Secretary, Department of Scientific and Industrial Research.]

Prescribed authority, services, etc., for agricultural development allowance.

²⁹6A. [Omitted by the IT (Thirty-second Amdt.) Rules, 1999, w.e.f. 19-11-1999.]

27. Inserted by the IT (Eighteenth Amdt.) Rules, 2001, w.e.f. 8-8-2001.

28. Inserted by the IT (Fifth Amdt.) Rules, 1998, w.e.f. 1-4-1998.

29. Prior to its omission, rule 6A, as inserted by the IT (Third Amdt.) Rules, 1970 and later on amended by the IT (Seventh Amdt.) Rules, 1977, w.e.f. 1-11-1977, read as under :

‘6A. *Prescribed authority, services, etc., for agricultural development allowance.*—(1) For the purposes of clause (a) of sub-section (1) of section 35C, the “prescribed authority” shall be the Secretary, Department of Agriculture, Ministry of Agriculture and Irrigation, Government of India.

(2) For the purposes of sub-clause (iii) of clause (b) of sub-section (1) of section 35C, the prescribed services and facilities shall be as follows, namely :—

(i) dissemination of information on, or demonstration of, modern techniques or methods of processing, marketing and storage of seeds ;

(ii) services or facilities given to seed growers for the purposes of storage, transport and insurance of seeds.’

Prescribed activities for export markets development allowance.

³⁰**6AA.** [Omitted by the IT (Thirty-second Amdt.) Rules, 1999, w.e.f. 19-11-1999.]

³¹[³²**Prescribed authority for the purposes of sections 35CC³³ and 35CCA³⁴.**

³⁵**[6AAA.]** For the purposes of section 35CC and section 35CCA,—

30. Prior to its omission, rule 6AA, as inserted by the IT (Eighth Amdt.) Rules, 1981, w.e.f. 1-8-1981 and later on amended by the IT (Third Amdt.) Rules, 1982, w.e.f. 27-5-1982, read as under :
'6AA. *Prescribed activities for export markets development allowance.*—For the purposes of sub-clause (ix) of clause (b) of sub-section (1) of section 35B, other activities for the promotion of the sale outside India of the goods, services or facilities which the assessee deals in or provides in the course of his business shall be as follows, namely :—
- (a) conducting of pre-investment surveys or the preparation of feasibility studies or project reports :
Provided that the pre-investment surveys are conducted or the feasibility studies are made or the project reports are prepared on the request in writing made by the Central Government or a foreign party to whom such goods, services or facilities are likely to be sold or provided by the assessee ;
- (b) maintenance outside India of a warehouse for the promotion of the sale outside India of such goods ;
- (c) maintenance of a laboratory or other facilities for quality control or inspection of such goods :
Provided that in a case where only part of the sales is made outside India, the amount of expenditure incurred on the maintenance of such laboratory or other facilities which shall qualify for deduction under clause (a) of sub-section (1) of section 35B shall not exceed the amount which bears the same proportion as the value of the turnover in respect of such exports bears to the turnover of the business in respect of which the laboratory or other facilities are maintained ;
- (d) purchase of foreign trade periodicals or journals related to the business of the assessee ;
- (e) litigation outside India for the purposes of the protection of the business interests of the assessee or of trading activities relating to the goods, services or facilities which the assessee deals in or provides in the course of his business.'
31. Substituted by the IT (Third Amdt.) Rules, 1979, w.e.f. 1-6-1979. Original rule was inserted as rule 6AA by the IT (Fourth Amdt.) Rules, 1977, w.e.f. 1-9-1977 and later substituted by the IT (Sixth Amdt.) Rules, 1978, w.e.f. 1-6-1978.
32. See section 295(2)(g).
33. Section 35CC has since been omitted by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1989.
34. *Notified income-tax authorities* : In exercise of the powers conferred by section 35CCA of the Income-tax Act, 1961 read with rule 6AAA of the Income-tax Rules, 1962, the Central Board of Direct Taxes empowers the income-tax authorities specified in column number (2) of the Schedule hereto annexed to be the Chairman of the Committee for the purposes of section 35CCA for the States/Union Territories specified in column number (3) of the said Schedule :

SCHEDULE

Serial No.	Income-tax authorities	State/Union Territory
(1)	(2)	(3)
1.	Chief Commissioner of Income-tax, Kolkata-I	West Bengal
2.	Chief Commissioner of Income-tax, Delhi-I	Delhi
3.	Chief Commissioner of Income-tax, Chandigarh	Punjab
4.	Chief Commissioner of Income-tax, Jaipur	Rajasthan

(Contd. on p. 1.71)

- (i) the “prescribed authority” to approve the programme of rural development referred to in sub-section (1) of section 35CC and in clause (a) of sub-section (1) of section 35CCA shall be the Committee consisting of the following, namely :—
 - (a) The ³⁶[Chief Commissioner or Commissioner] of Income-tax who exercises jurisdiction over the State or, as the case may be, the Union territory in which the programme of rural development is to be carried out—*Chairman*;
 - (b) An officer not below the rank of a Secretary to the Government of the State or, as the case may be, the Union territory in which the programme of rural development is to be carried out—*Member*;
- (ii) the “prescribed authority” to approve an association or institution referred to in clause (a) or clause (b) of sub-section (1) of section 35CCA shall be the Committee consisting of the following, namely :—
 - (a) The ³⁶[Chief Commissioner or Commissioner] of Income-tax, who exercises jurisdiction over the State or, as the case may be, the Union territory in which the principal office of the association or institution is situated—*Chairman*;
 - (b) An officer not below the rank of a Secretary to the Government of the State or, as the case may be, the Union territory in which the principal office of the association or institution is situated—*Member* :

Provided that where in a case whether falling under clause (i) or clause (ii) two or more Commissioners exercise jurisdiction over the State or, as the case may be, the Union territory, the Board may, by notification in the Official Gazette, empower the ³⁷[Chief Commissioner or Commissioner] specified in this behalf to be the Chairman of the Committee.

Explanation : In this rule, “programme of rural development” shall have the meaning assigned to it in the *Explanation* to sub-section (1) of section 35CC of the Income-tax Act.]

(Contd. from p. 1.70)

(1)	(2)	(3)
5.	Chief Commissioner of Income-tax, Ahmedabad-I	Gujarat
6.	Chief Commissioner of Income-tax, Mumbai-I	Maharashtra
7.	Chief Commissioner of Income-tax, Bangalore-I	Karnataka
8.	Chief Commissioner of Income-tax, Thiruvananthapuram	Kerala
9.	Chief Commissioner of Income-tax, Hyderabad-I	Andhra Pradesh
10.	Chief Commissioner of Income-tax, Chennai-I	Tamil Nadu
11.	Chief Commissioner of Income-tax, Bhopal	Madhya Pradesh
12.	Chief Commissioner of Income-tax, Lucknow-I	Uttar Pradesh
13.	Chief Commissioner of Income-tax, Guwahati	Assam - Notification No. SO 195(E), dated 11-2-2005.

35. Renumbered by the IT (Eighth Amdt.) Rules, 1981, w.e.f. 1-8-1981.

36. Substituted for “Commissioner” by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988.

37. Substituted for “Commissioner”, *ibid*.

Statement of expenditure for claiming deduction under section 35CC.

³⁸**6AAB.** [Omitted by the IT (Thirty-second Amdt.) Rules, 1999, w.e.f. 19-11-1999.]

³⁹[⁴⁰**Prescribed authority for the purposes of section 35CCB.**

6AAC. For the purposes of section 35CCB, the “prescribed authority” shall be the Secretary, Department of Environment, Government of India.]

⁴¹[**Form of audit report for claiming deductions under sections 35D and 35E.**

6AB. The report of audit of the accounts of an assessee, other than a company or a co-operative society, which is required to be furnished under sub-section (4) of section 35D or sub-section (6) of section 35E shall be in Form No. ⁴²[3AE].]

⁴³[**Computation of aggregate average advances for the purposes of clause (viiia) of sub-section (1) of section 36.**

6ABA. For the purposes of clause (viiia) of sub-section (1) of section 36, the aggregate average advances made by the rural branches of a scheduled bank shall be computed in the following manner, namely :—

- (a) the amounts of advances made by each rural branch as outstanding at the end of the last day of each month comprised in the previous year shall be aggregated separately ;
- (b) the sum so arrived at in the case of each such branch shall be divided by the number of months for which the outstanding advances have been taken into account for the purposes of clause (a) ;
- (c) the aggregate of the sums so arrived at in respect of each of the rural branches shall be the aggregate average advances made by the rural branches of the scheduled bank.

Explanation : In this rule, “rural branch” and “scheduled bank” shall have the meanings assigned to them in the *Explanation* to clause (viiia) of sub-section (1) of section 36⁴⁴.]

⁴⁵[**Infrastructure facility under clause (d) of the Explanation to clause (viii) of sub-section (1) of section 36.***

6ABAA. The conditions to be fulfilled by a public facility to be eligible to be notified as an infrastructure facility⁴⁶ in accordance with the provisions of clause

38. Prior to its omission, rule 6AAB, as inserted by the IT (Amdt.) Rules, 1978 and later amended by the IT (Sixth Amdt.) Rules, 1986, w.e.f. 1-4-1987, read as under :

“6AAB. *Statement of expenditure for claiming deduction under section 35CC.*—The statement of expenditure required to be furnished under sub-section (3) of section 35CC shall be in Form No. 3AB.”

39. Inserted by the IT (Sixth Amdt.) Rules, 1982, w.e.f. 26-6-1982.

40. See section 295(2)(g).

41. Inserted by the IT (Amdt.) Rules, 1972, w.r.e.f. 1-4-1971 as rule 6AA and later renumbered as rule 6AB by the IT (Fourth Amdt.) Rules, 1977, w.e.f. 1-9-1977.

42. Substituted for “3B” by the IT (Eleventh Amdt.) Rules, 2006, w.e.f. 19-10-2006.

43. Inserted by the IT (Fifth Amdt.) Rules, 1979, w.e.f. 1-4-1980.

44. See also Instruction No. 10/2008, dated 31-7-2008. For details, see Taxmann’s Master Guide to Income-tax Rules.

45. Inserted by the IT (Sixth Amdt.) Rules, 2006, w.e.f. 20-7-2006.

46. For notified infrastructure facility, see Taxmann’s Master Guide to Income-tax Rules.

*Heading is provided by Editors.

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(d) of the *Explanation* to clause (viii) of sub-section (1) of section 36 shall be the following, namely :—

- (a) it is owned by a company registered in India or by a consortium of such companies or by an authority or a board or a corporation or any other body established or constituted under any Central or State Act;
- (b) it has entered into an agreement with the Central Government or a State Government or a local authority or any other statutory body for (i) developing or (ii) operating and maintaining or (iii) developing, operating and maintaining a new infrastructure facility similar in nature to an infrastructure facility referred to in the *Explanation* to clause (i) of sub-section (4) of section 80-IA;
- (c) it has started or starts operating and maintaining such infrastructure facility on or after the 1st day of April, 1995.]

⁴⁷[**Form of report for claiming deduction under clause (xi) of sub-section (1) of section 36.**

6ABB. The report of an accountant, which is required to be furnished under clause (xi) of sub-section (1) of section 36 shall be in Form No. 3BA.]

Limits and conditions for allowance of expenditure in certain cases.

⁴⁸**6AC.** [Omitted by the IT (Thirty-second Amdt.) Rules, 1999, w.e.f. 19-11-1999.]

Expenditure on advertisement.

⁴⁹**6B.** [Omitted by the IT (Thirty-second Amdt.) Rules, 1999, w.e.f. 19-11-1999.]

47. Inserted by the IT (Twentieth Amdt.) Rules, 1999, w.e.f. 1-4-2000.

48. Prior to its omission, rule 6AC, as inserted by the IT (Third Amdt.) Rules, 1965, as rule 6A and later substituted by the IT (Fourth Amdt.) Rules, 1965 and the IT (Second Amdt.) Rules, 1966 and renumbered as rule 6AA by the IT (Third Amdt.) Rules, 1970 and later renumbered as rule 6AC by the IT (Amdt.) Rules, 1972, read as under :

“6AC. *Limits and conditions for allowance of expenditure in certain cases.*—Expenditure referred to in sub-section (3) of section 37 shall be allowed only to the extent and subject to the conditions specified in rules 6B, 6C and 6D :

Provided that in the case of such expenditure incurred during the previous year commencing immediately prior to the 10th day of August, 1966, or any earlier previous year, the full amount thereof, if otherwise admissible under sub-section (1) of section 37, shall be allowed.”

49. Prior to its omission, rule 6B, as inserted by the IT (Second Amdt.) Rules, 1966 [originally it was inserted by the IT (Third Amdt.) Rules, 1965 and omitted by the IT (Fourth Amdt.) Rules, 1965] and later amended by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988, IT (Tenth Amdt.) Rules, 1990, w.e.f. 12-4-1990 and IT (Eighth Amdt.) Rules, 1992, w.e.f. 1-4-1992, read as under :
“6B. *Expenditure on advertisement.*—(1) The allowance in respect of expenditure on advertisement shall not in the following cases exceed—

- (a) in respect of articles intended for presentation,—
 - (i) where the amount of such expenditure does not exceed Rs. 1,000 on each such article, the whole of such amount ;
 - (ii) in any other case, Rs. 1,000 on each such article as increased by a sum equal to fifty per cent of the expenditure in excess of Rs. 1,000 on such article ;
- (b) in respect of any advertisement outside India involving payment in foreign currency, the amount covered by foreign exchange granted to, or permitted to be acquired by, the assessee for this purpose under the law relating to the foreign exchange for the time being in force.

(Contd. on p. 1.74)

Expenditure on residential accommodation including guest houses.

6C. [Omitted by the IT (Amdt.) Rules, 1973, w.e.f. 1-4-1973. Original rule 6C was inserted by the IT (Third Amdt.) Rules, 1965 and later omitted by the IT (Fourth Amdt.) Rules, 1965. It was again inserted by the IT (Second Amdt.) Rules, 1966.]

Expenditure in connection with travelling, etc.

⁵⁰**6D.** [Omitted by the IT (Thirty-second Amdt.) Rules, 1999, w.e.f. 19-11-1999.]

(Contd. from p. 1.73)

(2) (i) Where the Assessing Officer is of opinion that any expenditure on advertisement of the nature described in clause (ii) is excessive or unreasonable having regard to the legitimate business needs of the assessee and the benefit derived by or accruing to him therefrom, that portion of the expenditure which is so considered by him to be excessive or unreasonable shall not be allowed as a deduction in computing the total income.

(ii) The expenditure referred to in clause (i) is that incurred on advertisement involving payment—

(A) to a person (including in the case of a company, firm, an association of persons or a Hindu undivided family, a director, partner or member, as the case may be, of such company, firm, association or family) who has a substantial interest in the business of the assessee, or to a relative of such person ; or

(B) to a person who carries on the business of, or profession as, a publicity or advertising agent, where the assessee, or in a case where the assessee is a company, firm, an association of persons or a Hindu undivided family, any director, partner or member, as the case may be, of such company, firm, association or family, or any relative of such assessee or such director, partner or member, has a substantial interest in the business or profession of that person.

(3) Any expenditure on advertisement for which payment has been made in a sum exceeding Rs. 10,000 shall not be allowed as a deduction in computing the total income unless such payment is made by a crossed cheque drawn on a bank or by a crossed bank draft :

Provided that where an allowance has been made in the assessment for any year in respect of any liability incurred by the assessee for expenditure on advertisement exceeding Rs. 10,000 and subsequently during any previous year the assessee makes payment in respect thereof otherwise than in accordance with the provisions of this clause, the allowance originally made shall be deemed to have been wrongly made and the Assessing Officer may recompute the total income of the assessee for the previous year in which such liability was incurred and make the necessary amendment ; and the provisions of section 154 shall, so far as may be, apply thereto, the period of four years specified in sub-section (7) of that section being reckoned from the end of the assessment year next following the previous year in which the payment was so made.

Explanation : For the purposes of this rule,—

(i) “relative” shall have the meaning assigned to it in clause (41) of section 2;

(ii) a person shall be deemed to have a substantial interest in a business or profession, if—

(a) in a case where a business or profession is carried on by a company, such person is the beneficial owner of 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 ; and

(b) in any other case, such person is beneficially entitled to not less than twenty per cent of the profits of such business or profession.’

50. Prior to its omission, rule 6D, as inserted by the IT (Second Amdt.) Rules, 1966 [originally it was inserted by the IT (Third Amdt.) Rules, 1965 and omitted by the IT (Fourth Amdt.) Rules, 1965] and later amended by the IT (Eighth Amdt.) Rules, 1992, w.e.f. 1-4-1992, IT (Fourth Amdt.) Rules, 1980, w.e.f. 18-6-1980 and IT (Fifth Amdt.) Rules, 1975, read as under :

(Contd. on p. 1.75)

⁵¹[⁵²**Cases and circumstances in which a payment or aggregate of payments exceeding twenty thousand rupees may be made to a person in a day, otherwise than by an account payee cheque drawn on a bank or account payee bank draft.**

6DD. No disallowance under sub-section (3) of section 40A shall be made and no payment shall be deemed to be the profits and gains of business or profession under sub-section (3A) of section 40A where a payment⁵³ or aggregate of

(Contd. from p. 1.74)

'6D. *Expenditure in connection with travelling, etc.*—(1)(i) The allowance in respect of expenditure incurred by an assessee in connection with travelling by an employee or any other person outside India for the purposes of the business or profession of the assessee shall not exceed the amount which bears to the aggregate of the amount, if any, covered by foreign exchange granted, or permitted to be acquired, for the purpose of such travel under the law relating to foreign exchange for the time being in force and the amount expended on such travel in Indian currency, the same proportion as is determined in the manner specified in clause (ii).

(ii) The proportion referred to in clause (i) shall be determined by dividing the number of days mainly devoted by such employee or other person for the purposes of the business or profession of the assessee outside India by the total number of days spent by such employee or other person outside India (excluding, in either case, the number of days required for such travel by a reasonably direct route in the mode of travel adopted by him).

Explanation.—For the purpose of this rule, the expression “days mainly devoted by such employee or other person for the purposes of the business or profession of the assessee outside India” shall include any public holiday in a foreign country on which such employee or other person is required to stay outside India, provided that the working days immediately following such public holiday is mainly devoted by him for the purposes of the business or profession of the assessee.

(2) The allowance in respect of expenditure incurred by an assessee in connection with travelling by an employee or any other person within India outside the headquarters of such employee or other person for the purposes of the business or profession of the assessee shall not exceed the aggregate of the amounts computed as hereunder :—

- (a) in respect of travel by rail, road, waterway or air, the expenditure actually incurred ;
- (b) in respect of any other expenditure (including hotel expenses or allowances paid) in connection with such travel, an amount calculated at the following rates for the period spent outside such headquarters :—
 - (i) where the amount of such expenditure does not exceed Rs. 1,500 per day, the whole of such amount ;
 - (ii) in any other case, Rs. 1,500 as increased by a sum equal to seventy-five per cent of such expenditure in excess of Rs. 1,500 per day.'

51. Substituted by the IT (Seventh Amdt.) Rules, 2008, with effect from assessment year 2009-10. Prior to its substitution, rule 6DD as amended by the IT (Eighth Amdt.) Rules, 2007, with effect from assessment year 2008-09, IT (Amdt.) Rules, 1969, w.e.f. 1-4-1969, IT (Fourth Amdt.) Rules, 1970, w.e.f. 1-4-1970, IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988/w.e.f. 18-5-1989, IT (Fourteenth Amdt.) Rules, 1995, w.e.f. 25-7-1995, IT (Twenty-first Amdt.) Rules, 1995, w.e.f. 1-12-1995, IT (Thirty-first Amdt.) Rules, 1999, w.r.e.f. 1-4-1997, IT (Sixteenth Amdt.) Rules, 2000, w.r.e.f. 25-7-1995 and IT (Thirteenth Amdt.) Rules, 2006, w.e.f. 9-11-2006 read as under :

'6DD. *Cases and circumstances in which payment in a sum exceeding twenty thousand rupees may be made otherwise than by an account payee cheque drawn on a bank or account payee bank draft.*—No disallowance under clause (a) of sub-section (3) of section 40A shall be made and no payment shall be deemed to be the profits and gains of business or profession under clause (b) of sub-section (3) of section 40A where any payment in a sum exceeding twenty thousand rupees is made otherwise than by an account payee cheque drawn on a bank or account payee bank draft in the cases and circumstances specified hereunder, namely :—

(Contd. on p. 1.76)

(Contd. from p. 1.75)

- (a) where the payment is made to—
- (i) the Reserve Bank of India or any banking company as defined in clause (c) of section 5 of the Banking Regulation Act, 1949 (10 of 1949);
 - (ii) the State Bank of India or any subsidiary bank as defined in section 2 of the State Bank of India (Subsidiary Banks) Act, 1959 (38 of 1959);
 - (iii) any co-operative bank or land mortgage bank;
 - (iv) any primary agricultural credit society or any primary credit society as defined under section 56 of the Banking Regulation Act, 1949 (10 of 1949);
 - (v) the Life Insurance Corporation of India established under section 3 of the Life Insurance Corporation Act, 1956 (31 of 1956);
- (b) where the payment is made to the Government and, under the rules framed by it, such payment is required to be made in legal tender;
- (c) where the payment is made by—
- (i) any letter of credit arrangements through a bank;
 - (ii) a mail or telegraphic transfer through a bank;
 - (iii) a book adjustment from any account in a bank to any other account in that or any other bank;
 - (iv) a bill of exchange made payable only to a bank;
 - (v) the use of electronic clearing system through a bank account;
 - (vi) a credit card;
 - (vii) a debit card.
- Explanation.*—For the purposes of this clause and clause (g), the term “bank” means any bank, banking company or society referred to in sub-clauses (i) to (iv) of clause (a) and includes any bank [not being a banking company as defined in clause (c) of section 5 of the Banking Regulation Act, 1949 (10 of 1949)], whether incorporated or not, which is established outside India;
- (d) where the payment is made by way of adjustment against the amount of any liability incurred by the payee for any goods supplied or services rendered by the assessee to such payee;
- (e) where the payment is made for the purchase of—
- (i) agricultural or forest produce; or
 - (ii) the produce of animal husbandry (including livestock, meat, hides and skins) or dairy or poultry farming; or
 - (iii) fish or fish products; or
 - (iv) the products of horticulture or apiculture,
- to the cultivator, grower or producer of such articles, produce or products;
- (f) where the payment is made for the purchase of the products manufactured or processed without the aid of power in a cottage industry, to the producer of such products;
- (g) where the payment is made in a village or town, which on the date of such payment is not served by any bank, to any person who ordinarily resides, or is carrying on any business, profession or vocation, in any such village or town;
- (h) where any payment is made to an employee of the assessee or the heir of any such employee, on or in connection with the retirement, retrenchment, resignation, discharge or death of such employee, on account of gratuity, retrenchment compensation or similar terminal benefit and the aggregate of such sums payable to the employee or his heir does not exceed fifty thousand rupees;
- (i) where the payment is made by an assessee by way of salary to his employee after deducting the income-tax from salary in accordance with the provisions of section 192 of the Act, and when such employee—

(Contd. on p. 1.77)

payments made to a person in a day, otherwise than by an account payee cheque drawn on a bank or account payee bank draft, exceeds twenty thousand rupees⁵⁴ in the cases and circumstances specified hereunder, namely :—

⁵⁵(a) where the payment is made to—

(i) the Reserve Bank of India or any banking company⁵⁶ as defined in clause (c) of section 5 of the Banking Regulation Act, 1949 (10 of 1949);

(Contd. from p. 1.76)

(i) is temporarily posted for a continuous period of fifteen days or more in a place other than his normal place of duty or on a ship; and

(ii) does not maintain any account in any bank at such place or ship;

(j) where the payment was required to be made on a day on which the banks were closed either on account of holiday or strike;

(k) where the payment is made by any person to his agent who is required to make payment in cash for goods or services on behalf of such person;

(l) where the payment is made by an authorised dealer or a money changer against purchase of foreign currency or travellers cheques in the normal course of his business.

Explanation.—For the purposes of this clause, the expressions “authorised dealer” or “money changer” means a person authorised as an authorised dealer or a money changer to deal in foreign currency or foreign exchange under any law for the time being in force.’

52. Rule 6DD is constitutionally valid - *Attar Singh Gurmukh Singh v. ITO* [1991] 191 ITR 667 (SC)/ *Mudiam Oil Co. v. ITO* [1973] 92 ITR 519 (AP). Section 40A(3) is not in violation of article 265 of the Constitution - *ITO v. Kenaram Saha & Subhash Saha* [2009] 116 ITD 1 (Kol. - Trib.) (SB). The rule will apply even for computation of income under ‘other sources’. The term ‘bank’ will include indigenous money-lenders’ banks provided they are specifically notified under section 49A of the Banking Regulation Act - *Circular No. 6P, dated 6-7-1968*. Section 40A(3) can be invoked only if the expenditure has been claimed as a deduction by the assessee - *Saral Motors & General Finance Ltd. v. Asstt. CIT* [2009] 121 ITD 50 (Delhi - Trib.). For details, see Taxmann’s Master Guide to Income-tax Rules.

53. The term ‘expenditure’ refers to any payment made by assessee, and is not confined to expenditure deductible under section 37 - *Sajowanlal Jaiswal v. CIT* [1976] 103 ITR 706 (Ori.). It will cover payments for acquisition of stock-in-trade or raw materials - *Attar Singh Gurmukh Singh v. ITO* [1997] 191 ITR 667 (SC). Even advances made for purchase of goods are covered - *Kejriwal Iron Stores v. CIT* [1988] 169 ITR 12 (Raj.). Payments by film distributor for acquisition of distribution rights are covered - *Akash Films v. CIT* [1991] 190 ITR 32 (Kar.). However, payments representing loans or their repayments are not covered - *Press Note, dated 2-5-1969/Letter F. No. 1(22)/69-TPL (Pt.), dated 18-4-1969*. For details, see Taxmann’s Master Guide to Income-tax Rules.

54. Where payment is partly in cash and partly by cheque, ceiling will apply to cash portion only - *H.A. Nek Mohd. & Sons v. CIT* [1982] 135 ITR 501 (All.). For details, see Taxmann’s Master Guide to Income-tax Rules.

55. Rule 6DD(a) applies only to payments to institutions referred to therein and not to payments made in any party’s account maintained by institutions referred to therein - *K. Abdu & Co. v. ITO* [2008] 170 Taxman 297 (Ker.).

56. Clause (c) of section 5 of the Banking Regulation Act, 1949 defines “banking company” as follows :

(c) “banking company” means any company which transacts the business of banking in India.

Explanation : Any company which is engaged in the manufacture of goods or carries on any trade and which accepts deposits of money from the public merely for the purpose of financing its business as such manufacturer or trader shall not be deemed to transact the business of banking within the meaning of this clause.’

- (ii) the State Bank of India or any subsidiary bank⁵⁷ as defined in section 2 of the State Bank of India (Subsidiary Banks) Act, 1959 (38 of 1959);
 - (iii) any co-operative bank or land mortgage bank;
 - (iv) any primary agricultural credit society or any primary credit society as defined under section 56 of the Banking Regulation Act, 1949 (10 of 1949);
 - (v) the Life Insurance Corporation of India established under section 3 of the Life Insurance Corporation Act, 1956 (31 of 1956);
- ⁵⁸(b) where the payment is made to the Government and, under the rules framed by it, such payment is required to be made in legal tender;
- (c) where the payment is made by—
- (i) any letter of credit arrangements through a bank;
 - (ii) a mail or telegraphic transfer through a bank;
 - (iii) a book adjustment from any account in a bank to any other account in that or any other bank;
 - (iv) a bill of exchange made payable only to a bank;
 - (v) the use of electronic clearing system through a bank account;
 - (vi) a credit card;
 - (vii) a debit card.
- Explanation.*—For the purposes of this clause and clause (g), the term “bank” means any bank, banking company or society referred to in sub-clauses (i) to (iv) of clause (a) and includes any bank [not being a banking company⁵⁹ as defined in clause (c) of section 5 of the Banking Regulation Act, 1949 (10 of 1949)], whether incorporated or not, which is established outside India;
- ⁶⁰(d) where the payment is made by way of adjustment against the amount of any liability incurred by the payee for any goods supplied or services rendered by the assessee to such payee;
- ⁶¹(e) where the payment is made for the purchase of—
- (i) agricultural or forest produce; or
 - (ii) the produce of animal husbandry (including livestock, meat, hides and skins) or dairy or poultry farming; or

57. Clauses (j) and (k) of section 2 of the State Bank of India (Subsidiary Banks) Act, 1959, define “State Bank” and “subsidiary bank”, respectively, as follows :

(j) “State Bank” means the State Bank of India constituted under the State Bank of India Act, 1955 (23 of 1955) ;

(k) “subsidiary bank” means any new bank and includes the Hyderabad Bank and the Saurashtra Bank ;’

58. Payment of freight charges/booking of wagons to railways, and payment of sales tax/excise duty are covered by this exception—Circular No. 34, dated 5-3-1970. For details, see Taxmann’s Master Guide to Income-tax Rules.

59. See footnote No. 56 on page No. 1.77 ante.

60. Exception will not apply in cases where book adjustments were not made directly in the accounts of the supplier—*CIT v. Kishan Chand Maheswari Dass* [1980] 121 ITR 232 (Punj. & Har.). For details, see Taxmann’s Master Guide to Income-tax Rules.

61. The words ‘cultivator, grower or producer’ occurring at the end of this sub-rule qualify the words occurring in all the preceding four sub-clauses, and not merely sub-clause (iv)—*CIT v. Pehlaj Rai Daryanmal* [1991] 190 ITR 242 (All.). Exclusion to operate even if product has undergone any change - *Press Note dated 2-5-1969*. Payments to middlemen are not covered - *Letter F.No. 1/22/69-TPL (Pt.), dated 18-4-1969*. Exception will not be available on purchase

(Contd. on p. 1.79)

- (iii) fish or fish products⁶²; or
- (iv) the products of horticulture or apiculture, to the cultivator, grower or producer of such articles, produce or products;
- (f) where the payment is made for the purchase of the products manufactured or processed without the aid of power in a cottage industry, to the producer of such products;
- ⁶³(g) where the payment is made in a village or town, which on the date of such payment is not served by any bank, to any person who ordinarily resides, or is carrying on any business, profession or vocation, in any such village or town;
- (h) where any payment is made to an employee of the assessee or the heir of any such employee, on or in connection with the retirement, retrenchment, resignation, discharge or death of such employee, on account of gratuity, retrenchment compensation or similar terminal benefit and the aggregate of such sums payable to the employee or his heir does not exceed fifty thousand rupees;
- (i) where the payment is made by an assessee by way of salary to his employee after deducting the income-tax from salary in accordance with the provisions of section 192 of the Act, and when such employee—

(Contd. from p. 1.78)

of hides and skins from a person who is not proved to be the producer of the goods—*Ideal Tannery v. CIT*[1979] 117 ITR 34 (All.). To satisfy test of rule 6DD(e), not only payment should be made for purchase or produce of animal husbandry but payment is to be made to producer of such produce - *ITO v. Kenaram Saha & Subhash Saha* [2009] 116 ITD 1 (Kol. - Trib.) (SB). Rule 6DD(e) nowhere says that such producer must belong to rural areas where banking facility is not available - *Hybro Foods (P.) Ltd. v. ITO* [2008] 115 ITD 73/25 SOT 143 (Mum.-Trib.). Purchase of *Dhania* (an agricultural produce) is eligible for the exception—*Kanti Lal Purshottam & Co. v. CIT* [1985] 155 ITR 519 (Raj.). Exception will not apply to payments made to 'arhatiyas'—*Circular No. 34, dated 5-3-1970*. The expression "the produce of animal husbandry" used under rule 6DD(e)(ii) would include "livestock and meat"; further exception will not be available on the payment for the purchase of livestock, meat, hides and skins from a person who is not proved to be the producer of these goods and is only a trader, broker or any other middleman by whatever name called - *Circular No. 4/2006, dated 29-3-2006*. Any person, by whatever name called, who buys animals from the farmers, slaughters them and then sells the raw meat carcasses to the meat processing factories or to the traders/retail outlets would be considered as producer of livestock and meat. The benefit of rule 6DD shall be available to him subject to furnishing of prescribed document - *Circular No. 8/2006, dated 6-10-2006*. See also *Press Release, dated 2-5-1969*. For details, see Taxmann's Master Guide to Income-tax Rules.

62. Circular No. 10/2008, dated 5-12-2008, provides as under :
- ◆ The expression 'fish or fish products' used in rule 6DD(e)(iii) [now rule 6DD(f)(iii)] would include 'other marine products such as shrimp, prawn, cuttlefish, squid, crab, lobster, etc.'
 - ◆ The 'producers' of 'fish or fish products' for the purpose of rule 6DD(e) would include, besides the fishermen, any headman of fishermen, who sorts the catch of fish brought by fishermen from the sea, at the sea-shore itself and then sells the fish or fish products to traders, exporters, etc.
 - ◆ Exception provided under rule 6DD(e)(iii) will not be available on the payment for the purchase of fish or fish products from a person who is not proved to be a 'producer' of these goods and is only a trader, broker or any other middleman, by whatever name called.
- 'Processed fish' is covered under 'fish or fish products' - *CIT v. Interseas, Sea Food Exporters* [2010] 188 Taxman 343 (Ker.).
63. If place where recipient resides or carries on business is having banking facility, conditions of rule 6DD(g) would not be satisfied merely because recipient has not opened his bank account - *ITO v. Kenaram Saha & Subhash Saha* [2009] 116 ITD 1 (Kol. - Trib.) (SB).

- (i) is temporarily posted for a continuous period of fifteen days or more in a place other than his normal place of duty or on a ship; and
- (ii) does not maintain any account in any bank at such place or ship;
- ⁶⁴(j) where the payment was required to be made on a day on which the banks were closed either on account of holiday or strike;
- (k) where the payment is made by any person to his agent⁶⁵ who is required to make payment in cash for goods or services on behalf of such person;
- (l) where the payment is made by an authorised dealer or a money changer against purchase of foreign currency or travellers cheques in the normal course of his business.

Explanation.—For the purposes of this clause, the expressions “authorised dealer” or “money changer” means a person authorised as an authorised dealer or a money changer to deal in foreign currency or foreign exchange under any law for the time being in force.]

⁶⁶[**Conditions that a stock exchange is required to fulfil to be notified as a recognised stock exchange for the purposes of clause (d) of proviso to clause (5) of section 43.**

6DDA. For the purposes of clause (d) of proviso to clause (5) of section 43, a stock exchange shall fulfil the following conditions in respect of trading in derivatives, namely :—

- (i) the stock exchange shall have the approval of the Securities and Exchange Board of India established under the Securities and Exchange Board of India Act, 1992 (15 of 1992) in respect of trading in derivatives and shall function in accordance with the guidelines or conditions laid down by the Securities and Exchange Board of India;
- (ii) the stock exchange shall ensure that the particulars of the client (including unique client identity number and PAN) are duly recorded and stored in its databases;
- (iii) the stock exchange shall maintain a complete audit trail of all transactions (in respect of cash and derivative market) for a period of seven years on its system;
- ^{66a}(iv) *the stock exchange shall ensure that transactions (in respect of cash and derivative market) once registered in the system are not erased;]*
- ^{66b}(v) *the stock exchange shall ensure that the transactions (in respect of cash and derivative market) once registered in the system are modified only in cases of genuine error and maintain data regarding all transactions (in respect of cash and derivative market) registered in the system which have been modified and submit a monthly statement in Form No. 3BB to the Director General of Income-tax (Intelligence), New Delhi within fifteen days from the last day of each month to which such statement relates.]*

64. Exclusion operates even for period prior to 1-12-1995—See Circular No. 250, dated 11-1-1979 and Letter F. No. 142(14)/70-TPL, dated 28-9-1970.

65. Employee is not ‘agent’ - *Dy. CIT v. Vijay Kumar Ramesh Chand & Co.* [2007] 108 ITD 626 (Pune - Trib.). For details, see Taxmann’s Master Guide to Income-tax Rules.

66. Inserted by the IT (Twentieth Amdt.) Rules, 2005, w.e.f. 1-7-2005.

66a. Substituted by the IT (First Amdt.) Rules, 2011, w.e.f. **1-4-2011**. Prior to its substitution, clause (iv) read as under :

“(iv) the stock exchange shall ensure that transactions once registered in the system cannot be erased or modified.”

66b. Inserted, *ibid.*

1.81 DETERMINATION OF INCOME - PROFITS & GAINS OF BUSINESS RR. 6DDB-6E

Notification of a recognised stock exchange for the purposes of clause (d) of proviso to clause (5) of section 43.

6DDB. (1) An application for notification of a stock exchange as a recognised stock exchange for the purposes of clause (d) of proviso to clause (5) of section 43 may be made to the Member (L), Central Board of Direct Taxes, North Block, New Delhi - 110001.

(2) The application referred to in sub-rule (1) shall be accompanied with the following documents, namely :—

- (i) approval granted by Securities and Exchange Board of India for trading in derivatives;
- (ii) up-to-date rules, bye-laws and trading regulations of the stock exchange;
- (iii) confirmation regarding fulfilling the conditions referred to in clause (ii) to ^{66c}[clause (v)] of rule 6DDA;
- (iv) such other information as the stock exchange may like to place before the Central Government.

(3) The Central Government may call for such other information from the applicant as it deems necessary for taking a decision on the application.

(4) The Central Government, after examining the information furnished by the stock exchange under sub-rule (2) or sub-rule (3), shall notify⁶⁷ the stock exchange as a recognised stock exchange for the purposes of clause (d) of proviso to clause (5) of section 43 or issue an order rejecting the application before the expiry of four months from the end of the month in which the application is received.

(5) The notification referred to in sub-rule (4) shall be effective until the approval granted by the Securities and Exchange Board of India is withdrawn or expired, or the notification is rescinded by the Central Government.]

⁶⁸**[Limits of reserve for unexpired risks.**

6E. In the computation of profits and gains of any business of insurance other than life insurance, the amount carried over to a reserve for unexpired risks including any amount carried over to any such additional reserve which is to be allowed as a deduction under clause (c) of rule 5 of the First Schedule, shall not exceed—

- ⁶⁹[(a) where the insurance business relates to fire insurance or engineering insurance and which provides insurance for terrorism risks, 100 per cent of the net premium income of such business of the previous year;
- (aa) where the insurance business relates to fire insurance or miscellaneous insurance other than the insurance business covered under clause (a), 50 per cent of the net premium income of such business of the previous year;]

66c. Substituted for "clause (iv)" by the IT (First Amdt.) Rules, 2011, w.e.f. **1-4-2011**.

67. Notified Stock Exchanges :

- National Stock Exchange of India Ltd., Mumbai
- Bombay Stock Exchange Limited, Mumbai - SO 89(E), dated 25-1-2006.
- MCX Stock Exchange Ltd. - SO 1327(E), dated 22-5-2009.
- United Stock Exchange of India Limited - Notification No. 12/2011 [F. No. 142/20/2010-SO(TPL)], dated 25-2-2011.

68. Inserted by the IT (Second Amdt.) Rules, 1962, as rule 6A and later renumbered as rule 6E by the IT (Third Amdt.) Rules, 1965, rule 6B by the IT (Fourth Amdt.) Rules, 1965 and rule 6E by the IT (Second Amdt.) Rules, 1966.

69. Substituted by the IT (Seventh Amdt.) Rules, 2002, w.e.f. 1-4-2003. Prior to its substitution, it read as under :

"(a) where the insurance business relates to fire insurance or miscellaneous insurance, 50 per cent of the net premium income of such business of the previous year;"

- (b) where the insurance business relates to marine insurance, 100 per cent of the net premium income of such business of the previous year:

Provided that any amount out of the amount carried over to such reserve or additional reserve which is not allowed as a deduction under this rule in respect of any previous year shall not be included in the total income for the assessment year relevant to the immediately next succeeding previous year in the revenue account relating to which the amount aforesaid is credited.

⁷⁰[*Explanation.*—For the purposes of this rule,—

- (a) “net premium income” means the amount of premium received as reduced by the amount of reinsurance premium paid during the relevant previous year;
- (b) “marine insurance” includes the Export Credit Insurance.]]

***Special provision regarding interest on bad and doubtful debts of financial institutions, banks, etc.**

⁷¹[**6EA.** The provisions of section 43D shall apply in the case of every public financial institution, scheduled bank, State financial corporation and State industrial investment corporation where its income by way of interest pertains to the following categories of bad and doubtful debts, namely:—

- (a) (i) Non-viable or sticky advances, *i.e.*, where irregularities of the nature specified in sub-clause (ii) are noticed in the accounts of the borrowers for a period of six months and more and there are no minimum prospects of regularisation of accounts, or where the accounts or information in relation to such accounts reflect usual signs of sickness, such as,—
- (1) apparent stagnation in the business as a result of the slow or negligible turnover;
 - (2) frequent requests for overdrawing or issue of cheques without ensuring availability of funds in the account;
 - (3) bills purchased or discounted remain overdue for 3 months and more or the recovery of such bills from the borrower poses difficulties;
 - (4) in the case of term-loans, instalments which are overdue for 6 months or more;
 - (5) unexplained delays by the borrower in submission of quarterly or half-yearly operating statements or stock statements or balance sheets and other information required by the bank;
 - (6) slow movement or stagnation of stocks observed during inspections;
 - (7) low or negligible level of activity observed during inspections or suspension or closure of the business;
 - (8) persistent delay in compliance with vital requirements like execution of documents, producing additional security when required or non-compliance with such requirements;

70. Substituted for the following by the IT (First Amndt.) Rules, 1997, w.r.e.f. 9-8-1962:

‘Explanation.—For the purposes of this rule, “net premium income” means the amount of premiums received as reduced by the amount of reinsurance premiums paid during the relevant previous year.’

71. Inserted by the IT (Tenth Amndt.) Rules, 1992, w.r.e.f. 1-4-1992.

*Editors have provided the heading.

- (9) diversion of funds to sister units or acquiring capital assets not relevant to the business or large personal withdrawals by the borrowers;
 - (10) intentional non-adherence to project schedules leading to substantial cost escalations and requirement of additional term-finance;
 - (11) the pressure on the liquidity leading to non-payment of wages to workers or statutory dues or rents of office and factory premises;
 - (12) the current liabilities exceeding current assets;
 - (13) any grave irregularities observed by the auditors of the borrowers which remain to be rectified;
 - (14) basic weakness revealed by the financial statements of the unit, for example, continued cash loss beyond one year.
- (ii) The irregularities referred to in sub-clause (i) in the accounts of the borrowers are,—
- (1) where the accounts are overdrawn beyond the drawing power or the sanctioned limit, for a temporary period;
 - (2) instalments in respect of term-loans are overdue for less than 6 months or import bills under letters of credit or instalments under deferred payment carried are overdue for less than 3 months;
 - (3) bills not exceeding 10% to 15% of the total outstandings in the bills purchased or discounted account of the borrower are overdue for payment for a period of less than 3 months and refund in respect of unpaid bills is not forthcoming immediately.
- (b) Advances recalled, *i.e.*, where the repayment is highly doubtful and revival of the unit is not considered worthwhile and a decision has been taken to recall the advances.
- (c) Suit-filed accounts, *i.e.*, where legal action or recovery proceedings have been initiated and suits are pending for recovery of advances.
- (d) Decreed debts, *i.e.*, where suits have been filed and decree obtained and such decree is pending for execution.
- (e) Debts recoverability whereof has become doubtful on account of shortfalls in value of security, difficulty in enforcing and realising the securities, or inability or unwillingness of the borrower to repay the banks dues, partly or wholly, and such debts have not been included in preceding clauses (a) to (d).]

⁷²[Categories of bad or doubtful debts in the case of a public company under clause (b) of section 43D.

6EB. The provisions of clause (b) of section 43D shall apply in the case of every public company where its income by way of interest pertains to the following categories of bad and doubtful debts, namely :—

- (a) (i) doubtful asset, that is, a debt which has remained a non-performing asset of the nature specified in sub-clause (ii) for a period exceeding two years;

72. Inserted by the IT (Thirtieth Amdt.) Rules, 1999, w.e.f. 6-10-1999.

- (ii) non-performing asset referred to in sub-clause (i) shall be the following :—
- (1) term loan beyond one year, if the interest amount remains “past due” for six months or instalment is overdue for more than six months;
 - (2) lease rental or hire purchase instalment, if the rental or the instalment is “past due” for six months;
 - (3) bill purchased or discounted, if the bill remains overdue and unpaid for six months; or
 - (4) any other credit facility in the nature of short term loan or advance [other than those referred to in (1), (2) and (3) above], if any amount to be received in respect of such a facility remains “past due” for a period of six months;
- (b) loss asset, that is, a debt which has been identified as loss and considered as uncollectible but has not been written off in the accounts of the assessee.

Explanation.—For the purposes of this rule, an amount shall be deemed to be “past due” when it remains unpaid for thirty days beyond the due date.]

⁷³[CC.—Books of account

⁷⁴**Books of account and other documents to be kept and maintained under section 44AA(3) by persons carrying on certain professions.**

6F. (1) Every person carrying on legal, medical, engineering or architectural profession or the profession of accountancy or technical consultancy or interior decoration or authorised representative or film artist shall keep and maintain the books of account and other documents^{74a} specified in sub-rule (2) :

⁷⁵**Provided** that nothing in this sub-rule shall apply in relation to any previous year in the case of any person if his total gross receipts in the profession do not exceed

73. Inserted by the IT (Ninth Amtd.) Rules, 1981, w.e.f. 21-11-1981.

74. See section 295(2)(dda). Section 44AA is valid and is not violative of the Constitution—*H.A.K. Rao v. Union of India* [1991] 189 ITR 322 (Kar.).

It is true that section 44AA nowhere provides that books of account maintained by medical professional and other professionals, must be based on valuation report of technically qualified persons; however, that does not mean that whatever has been shown by assessee must be taken as a gospel truth - *Smt. Kiran Lata v. ITAT* [2009] 177 Taxman 420 (Uttarakhand).

74a. It is not within scope and ambit of the power of AO to compel assessee to maintain its accounts according to AS-7 - *Blue Heaven Construction v. ITO* [2010] 39 SOT 39 (Kol. - Trib.)

75. Substituted by the IT (First Amtd.) Rules, 2000, w.e.f. 6-4-2000. Prior to its substitution, proviso, as inserted by the IT (Fifth Amtd.) Rules, 1983, w.e.f. 28-2-1983, read as under :

Provided that nothing in this sub-rule shall apply in relation to any previous year—

- (a) in the case of any person [other than a person referred to in clause (b)], if his total gross receipts in the profession do not exceed sixty thousand rupees in any one of the three years immediately preceding the previous year, or, where the profession has been newly set up in the previous year, his total gross receipts in the profession for that year are not likely to exceed the said amount;
- (b) in the case of a person who, in the course of his medical profession, dispenses drugs and medicines, his total gross receipts in the profession do not exceed eighty thousand rupees in any one of the three years immediately preceding the previous year, or, where the profession (including the dispensing of drugs and medicines) has been newly set up in the previous year, his total gross receipts in the profession for that year are not likely to exceed the said amount.”

one lakh fifty thousand rupees in any one of the three years⁷⁶ immediately preceding the previous year, or, where the profession has been newly set up in the previous year, his total gross receipts in the profession for that year are not likely to exceed the said amount.]

(2) The books of account and other documents referred to in sub-rule (1) shall be the following, namely:—

- (i) a cash book;
- (ii) a journal, if the accounts are maintained according to the mercantile system of accounting;
- (iii) a ledger;
- ⁷⁷[(iv) carbon copies of bills, whether machine numbered or otherwise serially numbered, wherever such bills are issued by the person, and carbon copies or counterfoils of machine numbered or otherwise serially numbered receipts issued by him:

Provided that nothing in this clause shall apply in relation to sums not exceeding twenty-five rupees;]

- (v) original bills wherever issued to the person and receipts in respect of expenditure incurred by the person or, where such bills and receipts are not issued and the expenditure incurred does not exceed fifty rupees, payment vouchers prepared and signed by the person:

⁷⁸**Provided** that the requirements as to the preparation and signing of payment vouchers shall not apply in a case where the cash book maintained by the person contains adequate particulars in respect of the expenditure incurred by him.]

Explanation : In this rule,—

- (a) “authorised representative” means a person who represents any other person, on payment of any fee or remuneration before any Tribunal or authority constituted or appointed by or under any law for the time being in force, but does not include an employee of the person so represented or a person carrying on legal profession or a person carrying on the profession of accountancy;
- (b) “cash book” means a record of all cash receipts and payments, kept and maintained from day-to-day and giving the cash balance in hand at the end of each day or at the end of a specified period not exceeding a ⁷⁹[month];
- (c) “film artist” means any person engaged in his professional capacity in the production of a cinematograph film whether produced by him or by any other person, as—
 - (i) an actor⁸⁰;

76. Where the assessee's gross professional receipts in one of the three years preceding the previous year in question have not exceeded Rs. 1,50,000, the assessee is not required to maintain books of account for that previous year even though such gross receipts have exceeded Rs. 1,50,000 in the other two preceding years - *A. Keshava Bhat v. ITO*[2001] 237 ITR 83/115 Taxman 208 (Kar.).

77. Substituted by the IT (Fifth Amdt.) Rules, 1983, w.e.f. 28-2-1983.

78. Inserted, *ibid.*

79. Substituted for “week”, *ibid.*

80. Stunt artist is not an actor - *Dy. CIT v. Movies Stunt Artists Assn.* [2006] 6 SOT 204 (Mum. - Trib.).

- (ii) a cameraman;
- (iii) a director, including an assistant director;
- (iv) a music director, including an assistant music director;
- (v) an art director, including an assistant art director;
- (vi) a dance director, including an assistant dance director;
- (vii) an editor;
- (viii) a singer;
- (ix) a lyricist;
- (x) a story writer;
- (xi) a screen-play writer;
- (xii) a dialogue writer; and
- (xiii) a dress designer.

⁸¹(3) A person carrying on medical profession shall, in addition to the books of account and other documents specified in sub-rule (2), keep and maintain the following, namely :—

- (i) a daily case register in Form No. 3C;
- (ii) an inventory ⁸²[under broad heads,] as on the first and the last day of the previous year, of the stock of drugs, medicines and other consumable accessories used for the purpose of his profession.

(4) The books of account and other documents specified in sub-rule (2) and sub-rule (3) ⁸²[other than those relating to a previous year which has come to an end] shall be kept and maintained by the person at the place where he is carrying on the profession or, where the profession is carried on in more places than one, at the principal place of his profession:

Provided that where the person keeps and maintains separate books of account in respect of each place where the profession is carried on, such books of account and other documents may be kept and maintained at the respective places at which the profession is carried on.

(5) The books of account and other documents specified in sub-rule (2) and sub-rule (3) shall be kept and maintained for a period of ⁸³[six] years from the end of the relevant assessment year:

⁸⁴[***]

Provided ⁸⁵[***] that where the assessment in relation to any assessment year has been reopened under section 147 of the Act within the period specified in section 149 of the Act, all the books of account and other documents which were kept and maintained at the time of reopening of the assessment shall continue to be so kept and maintained till the assessment so reopened has been completed.]

81. It is not open to assessing authority to desire some other books of account to be maintained over and above books of account required by rule 6F - *CIT v. Rajni Kant Dave* [2006] 150 Taxman 387 (All). Requirement of rule 6F(3) do not apply to a company since a company cannot carry on profession - *ITO v. Ashalok Nursing Home (P.) Ltd.* [2006] 156 Taxman 86 (Delhi - Trib.)(Mag.).

82. Inserted by the IT (Fifth Amdt.) Rules, 1983, w.e.f. 28-2-1983.

83. Substituted for "eight" by the IT (First Amdt.) Rules, 2002, w.e.f. 4-2-2002.

84. First proviso omitted, *ibid.*

85. "further" omitted, *ibid.*

1.87 DETERMINATION OF INCOME - AUDIT IN CASE OF ROYALTIES **RR. 6G-6GA**

⁸⁶[(6) Notwithstanding anything contained in sub-rules (1) to (3), it shall not be necessary for any person carrying on any of the professions specified in sub-rule (1) to keep and maintain the books of account and other documents specified in sub-rule (2) or sub-rule (3) in relation to any previous year commencing before the ⁸⁷[first day of March, 1983].]

⁸⁸[*CCC.—Reports of audit of accounts of persons carrying on business or profession*

⁸⁹**[Report of audit of accounts to be furnished under section 44AB.**

6G. (1) The report of audit of the accounts of a person required to be furnished under ⁹⁰section 44AB shall,—

(a) in the case of a person who carries on business or profession and who is required by or under any other law to get his accounts audited, be in Form No. 3CA;

(b) in the case of a person who carries on business or profession, but not being a person referred to in clause (a), be in Form No. 3CB.

(2) The particulars which are required to be furnished under section 44AB shall be in Form No. 3CD.]

⁹¹[*CCCA.—Report of audit in case of income by way of royalties, etc., in case of non-residents*

Form of report of audit to be furnished under sub-section (2) of section 44DA.

6GA. The report of audit of accounts of the non-resident (not being a company) or a foreign company, which is required to be furnished under sub-section (2) of section 44DA shall be in Form No. 3CE.]

86. Inserted by the IT (Second Amdt.) Rules, 1982, w.e.f. 21-11-1981.

87. Substituted for “first day of September, 1982” by the IT (Fifth Amdt.) Rules, 1983, w.e.f. 28-2-1983.

88. Inserted by the IT (Amdt.) Rules, 1985, w.e.f. 1-4-1985.

89. Substituted by the IT (Fourteenth Amdt.) Rules, 1999, w.e.f. 4-6-1999. Prior to its substitution, rule 6G, as inserted by the IT (Amdt.) Rules, 1985, w.e.f. 1-4-1985 and later on amended by the IT (Sixth Amdt.) Rules, 1985, w.e.f. 1-4-1985.

90. Section 44AB cannot be construed as superfluous—*A.S. Sarma v. Union of India* [1989] 175 ITR 254 (AP); *Abhay Kumar & Co. v. Union of India* [1987] 164 ITR 148 (Raj). Prescribing different dates for companies and other assessees is not discriminatory.—*N. Vinodkumar & Co. v. Union of India* [1999] 237 ITR 502 (Kar.). Expression ‘accounts’, used in section 142(2A) or under section 44AB, does not mean merely books of account of assessee, but it could include books of account, balance sheets and all other records maintained by assessee, irrespective of fact whether accounts maintained by assessee may or may not be in such form or manner or system as prescribed under section 44AA - *S.J. Agarwal & Co. v. ITO* [2008] 114 ITD 27 (Pune - Trib.). Non-inclusion of income-tax practitioners for auditing accounts is not violative of article 19 of the Constitution - *T.D. Venkata Rao v. Union of India* [1999] 103 Taxman 621/237 ITR 315 (SC).

Non-filing of audit report is a curable defect under section 139(9) of the Act - *M.P. State Agro Industries Development Corporation Ltd. v. CIT* [2003] 183 CTR (MP) 33. In case of an individual carrying on business as a sole proprietor it is necessary to comply with provisions of section 44AB only in respect of his business income; it would not be necessary to comply with provisions of section 44AB in respect of his other income - *Ghai Construction v. State of Maharashtra* [2009] 184 Taxman 52 (Bom.). For details, see Taxmann’s Master Guide to Income-tax Rules.

91. Inserted by the IT (Twenty-seventh Amdt.) Rules, 2003, w.e.f. 20-11-2003.

⁹²[CCCC.—*Report in the case of slump sale*

Form of report of an accountant under sub-section (3) of section 50B.

6H. The report of an accountant which is required to be furnished by every assessee along with the return of income, in case of slump sale, under sub-section (3) of section 50B shall be in Form No. 3CEA.]

D.—Special cases

⁹³**Income which is partially agricultural and partially from business.**

7. (1) In the case of income which is partially agricultural income as defined in section 2 and partially income chargeable to income-tax under the head “Profits and gains of business”, in determining that part which is chargeable to income-tax the market value of any agricultural produce which has been raised by the assessee or received by him as rent-in-kind and which has been utilised as a raw material in such business or the sale receipts of which are included in the accounts of the business shall be deducted, and no further deduction shall be made in respect of any expenditure incurred by the assessee as a cultivator or receiver of rent-in-kind.

(2) For the purposes of sub-rule (1) “market value” shall be deemed to be :—

- (a) where agricultural produce is ordinarily sold in the market in its raw state, or after application to it of any process ordinarily employed by a cultivator or receiver of rent-in-kind to render it fit to be taken to market, the value calculated according to the average price at which it has been so sold during the relevant previous year;
- (b) where agricultural produce is not ordinarily sold in the market in its raw state or after application to it of any process aforesaid, the aggregate of—

92. Heading “CCCC”, consisting of rule 6H, inserted by the IT (Twenty-first Amdt.) Rules, 1999, w.e.f. 25-6-1999.

93. See section 295(2)(b)(i).

‘Market’ in the context of rule 7 does not mean an open market where buyers and sellers get together for the purchase and sale of goods. The existence of such a market is not a pre-requisite for determination of market value. If the agricultural produce is ordinarily sold in the market, rule 7(2)(a) will apply; if not, rule 7(2)(b) will apply - *Thiru Arooran Sugars Ltd. v. CIT* [1997] 93 Taxman 579/227 ITR 432 (SC). Additional price of sugarcane pursuant to revision in prices is deductible in year in which liability arose - *Instruction No. 745, dated 30-8-1974*. Overhead expenses like salaries, provident fund, etc., are deductible in full - *CIT v. Bhopal Sugar Industries Ltd.* [1970] 78 ITR 209 (MP). Where agricultural produce is captively consumed, deduction towards market value cannot be denied merely because there was no sale of raw material and separate accounts had been maintained for agricultural production - *Nizam Sugar Factory Ltd. v. AAC* [1971] 80 ITR 547 (AP). If sugarcane as a produce is ordinarily saleable in the market, its nature cannot change because of the Sugarcane Control Order and, hence, only rule 7(2)(a) and not rule 7(2)(b) will apply to sugarcane - *CIT v. Thiru Arooran Sugars Ltd.* [1983] 144 ITR 4 (Mad.), affirmed in *Thiru Arooran Sugars Ltd. v. CIT* [1997] 93 Taxman 579/227 ITR 432 (SC). Market price must be one nearest to the factory of the manufacturer, and cannot be fixed by some sugarcane manufacturers association - *Walchandnagar Industries Ltd. v. CIT* [1970] 76 ITR 478 (Bom.).

(Contd. on p. 1.89)

- (i) the expenses of cultivation;
- (ii) the land revenue or rent paid for the area in which it was grown; and
- (iii) such amount as the ⁹⁴[Assessing Officer] finds, having regard to all the circumstances in each case, to represent a reasonable profit.

⁹⁵[**Income from the manufacture of rubber.**]⁹⁶

7A. ⁹⁷[(1) Income derived from the sale of centrifuged latex or cenex or latex based crepes (such as pale latex crepe) or brown crepes (such as estate brown crepe, remilled crepe, smoked blanket crepe or flat bark crepe) or technically specified block rubbers manufactured or processed from field latex or coagulum obtained

(Contd. from p. 1.88)

Where Government has fixed a general price for sugarcane, that price cannot be ignored in favour of any other price established by assessee with evidence - *CIT v. Bhopal Sugar Industries Ltd.* [1963] 47 ITR 859 (MP). Additional price paid in pursuance of Sugarcane Control Order is deductible - *CIT v. Janki Sugar Mills Co. Ltd.* [1972] 84 ITR 348 (All.). No part of managing agency commission is disallowable when managed company carries on the cultivation of sugarcane and manufacture of sugar as a single indivisible business - *CIT v. Maharashtra Sugar Mills Ltd.* [1971] 82 ITR 452 (SC)/*Walchandnagar Industries Ltd. v. CIT* [1970] 76 ITR 478 (Bom.)/*CIT v. Chillidhary Tea Co. Ltd.* [1983] 141 ITR 517 (Cal.). Where cultivation of sugarcane and manufacture of sugar was carried on as a composite indivisible business, and overhead expenses could not be apportioned as between the two activities, no portion of such expenses could be disallowed - *CIT v. Bhopal Sugar Industries Ltd.* [1970] 78 ITR 209 (MP)/*Addl. CIT v. Nizam Sugar Factory* [1981] 127 ITR 423 (AP). Transportation charges incurred for bringing sugarcane from own fields to factory are not disallowable under rule 7 - *CIT v. Nizam Sugar Factory Ltd. (No. 2)* [1979] 116 ITR 706 (AP). 'Average price' under rule 7(2)(a) means the average of the prices paid at the centre where sugarcane is supplied. Rebate for transport charges allowed by Government is not deductible - *Bhopal Sugar Industries Ltd. v. CIT* [1968] 70 ITR 403 (MP). Where assessee has an out-centre and also its own farms, the difference between the price fixed by Government for the out-centre and that fixed at the factory gate should be disallowed, and nothing more - *CIT v. Ganesh Sugar Mills Ltd.* [1986] 161 ITR 540 (Cal.). Where assessee-manufacturer had, in addition to sugarcane produced by it, purchased sugarcane from outside, the price at which sugarcane was purchased could not form the basis for determining the price of self-produced sugarcane - *Godavari Sugar Mills Ltd. v. CIT* [1978] 112 ITR 205 (Bom.).

For allowability of harvesting & transportation expenses in case of Cooperative Sugar Mills - See Circular No. 6/2007, dated 11-10-2007.

For details, see Taxmann's Master Guide to Income-tax Rules.

- 94. Substituted for "Income-tax Officer" by the IT (Fifth Amdt.) Rules, 1989, w.e.f. 1-4-1988.
- 95. Rules 7A and 7B inserted by the IT (Second Amdt.) Rules, 2001, w.e.f. 1-4-2002 (*i.e.*, assessment years 2002-03 and onwards).
- 96. Past assessments (*i.e.*, prior to assessment year 2002-03) will not be reopened if the assessee had already paid agricultural income-tax on the whole income from manufacture of rubber or coffee - Circular No. 5 of 2003, dated 22-5-2003. See also Circular No. 10/2003, dated 24-12-2003 and Circular No. 10/2006, dated 16-10-2006 [clarification regarding filing of return of income by coffee growers, being individuals covered by rule 7B]. For details, see Taxmann's Master Guide to Income-tax Rules.
- 97. Substituted by the IT (Third Amdt.) Rules, 2002, w.e.f. 1-4-2003. Prior to its substitution, it read as under :
 "(1) Income derived from the sale of centrifuged latex or cenex manufactured from rubber plants grown by the seller in India shall be computed as if it were income derived from business, and thirty-five per cent of such income shall be deemed to be income liable to tax."

from rubber plants grown by the seller in India shall be computed as if it were income derived from business, and thirty-five per cent of such income shall be deemed to be income liable to tax.]

(2) In computing such income, an allowance shall be made in respect of the cost of planting rubber plants in replacement of plants that have died or become permanently useless in an area already planted, if such area has not previously been abandoned, and for the purpose of determining such cost, no deduction shall be made in respect of the amount of any subsidy which, under the provisions of clause (3I) of section 10, is not includible in the total income.

Income from the manufacture of coffee.⁹⁸

7B. ⁹⁹[(1) Income derived from the sale of coffee grown and cured by the seller in India shall be computed as if it were income derived from business, and twenty-five per cent of such income shall be deemed to be income liable to tax.

(1A) Income derived from the sale of coffee grown, cured, roasted and grounded by the seller in India, with or without mixing chicory or other flavouring ingredients, shall be computed as if it were income derived from business, and forty per cent of such income shall be deemed to be income liable to tax.

Explanation : For the purposes of sub-rules (1) and (1A) “curing” shall have the same meaning as assigned to it in clause (d) of section 3 of the Coffee Act, 1942 (7 of 1942)¹.]

(2) In computing ²[the incomes referred to in sub-rules (1) and (1A)], an allowance shall be made in respect of the cost of planting coffee plants in replacement of plants that have died or become permanently useless in an area already planted, if such area has not previously been abandoned, and for the purpose of determining such cost, no deduction shall be made in respect of the amount of any subsidy which, under the provisions of clause (3I) of section 10, is not includible in the total income.]

98. See footnote No. 96 on page 1.89.

99. Sub-rules (1) and (1A) substituted for sub-rule (1) by the IT (Eleventh Amdt.) Rules, 2002, w.e.f. 1-4-2002. Prior to its substitution, sub-rule (1) read as under :

“(1) Income derived from the sale of coffee grown and manufactured by the seller in India, with or without mixing of chicory or other flavouring ingredients, shall be computed as if it were income derived from business, and forty per cent of such income shall be deemed to be income liable to tax.”

1. For definition of “curing”, see **Appendix**.
2. Substituted for “such income” by the IT (Eleventh Amdt.) Rules, 2002, w.e.f. 1-4-2002.

³Income from the manufacture of tea.

8. (1) Income derived from the sale of tea grown and manufactured by the seller in India shall be computed as if it were income derived from business, and forty per cent of such income shall be deemed to be income liable to tax.

(2) In computing such income an allowance shall be made in respect of the cost of planting bushes in replacement of bushes that have died or become permanently useless in an area already planted, if such area has not previously been abandoned⁴], and for the purpose of determining such cost, no deduction shall be made in respect of the amount of any subsidy which, under the provisions of clause (30) of section 10, is not includible in the total income.]

3. See section 295(2)(b)(i).

Rule 8 is not *ultra vires* section 295—*Tata Tea Ltd. v. State of West Bengal* [1988] 173 ITR 18 (SC). Decision in *CST v. D.S. Bist & Sons* AIR 1980 SC 169 has no bearing, and income from tea grown and sold in India will continue to be computed under rule 8 - *Circular No. 310, dated 29-7-1981*. Rule 8 will apply only to a seller who has himself grown and manufactured tea—*CIT v. Khan Bahadur Waliur Rahman* [1946] 14 ITR 287 (Cal.). State Legislature cannot deny any deduction admissible under the IT Act/Rules—*Karimtharuvi Tea Estates Ltd. v. State of Kerala* [1963] 48 ITR 83 (SC). AITO is bound to accept assessment made by the ITO—*Anglo-American Direct Tea Trading Co. Ltd. v. CAIT* [1968] 69 ITR 667 (SC)/*Bhagavandas Narayandas v. AITO* [1968] 70 ITR 128 (Mad.). Computation of agricultural income even for the purpose of the State enactments will have to be that which is made under the provisions of the Income-tax Act and Rules made thereunder - *Assam Co. Ltd. v. State of Assam* [2001] 248 ITR 567 (SC). It is not correct to say that rule 8 is applicable only in case of income - *Hindustan Unilever Ltd. v. Dy. CIT* [2010] 191 Taxman 119 (Bom.). Percentage must be applied on the chargeable income, *i.e.*, after allowing deductions under Chapter VI-A—*CAIT v. Periakaramalai Tea & Produce Co. Ltd.* [1972] 84 ITR 643 (Mad.). Salary/Interest paid to partner by a firm engaged in growing and selling tea is also taxable to the extent of 40 per cent of such salary/interest - *CIT v. R.M. Chidambaram Pillai* [1977] 106 ITR 292 (SC)/*CIT v. Amsoi Tea Estate* [1978] 112 ITR 234 (Gauhati)(FB). It is not necessary that both basic operations and subsequent operations must be carried on by one and the same person—*Havakkal Estate Co. v. CIT* [1977] 109 ITR 59 (Mad.). Rule is not applicable to income which has no relation to tea business (like income from investments)—*Sookerating Tea Co. (P.) Ltd. v. CIT* [1978] 111 ITR 457 (Gauhati). Where tea business is leased out to another party for management, only 40 per cent of lease income is assessable to income-tax—*CIT v. Haroocharai Tea Co.* [1978] 111 ITR 495 (Gauhati). Where it was found that assessee's activities of raising/selling tea and of raising paddy and other crops on the fallow land for the time being constituted an indivisible business, no part of the indirect expenses was disallowable—*CIT v. Chillidhary Tea Co. Ltd.* [1983] 141 ITR 517 (Cal.). Maintenance of nursery for purpose of raising bushes to be utilized for replantation of dead or useless bushes within plantation area does not come under rule 8(2) - *CIT v. Tasati Tea Ltd.* [2003] 129 Taxman 647/262 ITR 388 (Cal.). In case of assessee growing and manufacturing tea in Darjeeling, income from 'tea grown and manufactured' would be assessed by Assessing Officer under the 1961 Act and thereafter 40 per cent of such assessed income would be taxed under the 1961 Act and balance 60 per cent would be taxed under Bengal Agricultural Income-tax Act, 1944 by Agricultural Income-tax Officer; in case assessee directly sells green tea leaves resulting in an income from agricultural products, it cannot be taken as incidental income to business and whatever income is derived from sale of green tea leaves will be assessed by Agricultural Income-tax Officer under 1944 Act and not under 1961 Act - *Union of India v. Belgachi Tea Co. Ltd.* [2008] 170 Taxman 209/304 ITR 1 (SC). For details, see Taxmann's Master Guide to Income-tax Rules.

4. Inserted by the IT (Second Amdt.) Rules, 1971.

⁵[**Conditions for the grant of development allowance.**

8A. The other conditions referred to in clause (iii) of sub-section (3) of section 33A shall be the following, namely:—

- (a) the assessee shall, at least three months before commencing the operations for planting or, as the case may be, replanting tea bushes, give notice of his intention to do so to the Tea Board in writing in Form No. 4:
Provided that in a case where such operations have commenced before the ⁶[1st day of January, 1968], this condition shall be deemed to have been fulfilled if notice of such commencement is given by the assessee before the ⁷[1st day of February, 1968];
- (b) the assessee shall afford the Tea Board or such other person or agency as may be authorised in writing by the Tea Board in this behalf, every reasonable facility to enter upon and inspect the area under planting or, as the case may be, replanting;
- (c) the assessee shall furnish to the Tea Board such particulars, documents or statements, in relation to the planting or replanting of tea, as the Tea Board may require him to furnish;
- (d) the assessee shall furnish to the ⁸[Assessing Officer], along with his return of income for the previous year for which the deduction is claimed, a certificate from the Tea Board in Form No. 5 ⁹[and a statement of particulars in Form No. 5A].

Explanation : For the purposes of this rule, “Tea Board” means the Tea Board established under section 4 of the Tea Act, 1953 (29 of 1953).]

¹⁰[**Guidelines for notification of zero coupon bond.**

8B. (1) An application by an infrastructure capital company or infrastructure capital fund or a public sector company for notification under clause (48) of section 2 of any zero coupon bond proposed to be issued by it shall be made in Form No. 5B at least three months before the date of issue of such bond:

Provided that an application shall not be made for notification of a bond to be issued after two financial years following the financial year in which the application is made.

5. Inserted by the IT (Fourth Amdt.) Rules, 1967, w.e.f. 1-4-1967. See *CIT v. Malayalam Plantations Ltd.* [1976] 103 ITR 835 (Ker.) on filing of certificate under this rule.

6. Substituted for “1st day of August, 1967” by the IT (Third Amdt.) Rules, 1968, w.r.e.f. 1-4-1967.

7. Substituted for “1st day of September, 1967”, *ibid.*

8. Substituted for “Income-tax Officer” by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988.

9. Inserted by the IT (Amdt.) Rules, 1968, w.e.f. 1-4-1968.

10. Inserted by the IT (Third Amdt.) Rules, 2006, w.e.f. 1-4-2006. For notified Zero Coupon Bonds, see Taxmann’s Master Guide to Income-tax Rules.

(2) Every application, under sub-rule (1), shall be accompanied by the following documents, namely:—

- (i) where the application is made by any infrastructure capital company or a public sector company, being a Government company as defined in section 617 of the Companies Act, 1956 (1 of 1956), a copy of certificate of incorporation under the Companies Act, 1956 (1 of 1956);
- (ii) where the application is made by any infrastructure capital fund, a copy of the trust deed registered under the provisions of the Registration Act, 1908 (16 of 1908);
- (iii) where the application is made by a public sector company, being any corporation, established by or under any Central or State or Provincial Act, a copy of the relevant Act.

(3) The Central Government, while specifying a zero coupon bond by notification in the Official Gazette shall satisfy itself that the following conditions are fulfilled, namely:—

- (i) the period of life of the bond is not less than ten years and not more than twenty years;
- (ii) the infrastructure capital company or infrastructure capital fund or public sector company proposing to issue a zero coupon bond has an investment grade rating from at least two credit rating agencies registered under sub-section (1A) of section 12 of the Securities and Exchange Board of India Act, 1992 (15 of 1992);
- (iii) necessary arrangement has been made by the infrastructure capital company or infrastructure capital fund or public sector company for listing the zero coupon bond in a recognised stock exchange in India;
- (iv) where the application is made by the infrastructure capital company or infrastructure capital fund, such company or fund shall furnish along with the application an undertaking that the money realised on issue of the zero coupon bond shall be invested by it in the following manner, namely:—
 - (i) twenty-five per cent or more of such realisation before the end of the financial year immediately following the financial year in which the bond is issued;
 - (ii) the balance of such realisation within a period of four financial years immediately following the financial year in which the bond is issued;
- (v) where the application is made by a public sector company, such company shall furnish along with the application an undertaking that the money realised on issue of the zero coupon bond shall be invested or utilised by it in the following manner, namely:—
 - (i) fifteen per cent or more of such realisation before the end of the financial year immediately following the financial year in which the bond is issued;

(ii) the balance of such realisation within a period of six financial years immediately following the financial year in which the bond is issued.

(4) The Central Government, after having satisfied itself about fulfilling of the conditions referred to in sub-rule (1), sub-rule (2) and sub-rule (3) shall specify the bond, by notification in the Official Gazette, giving therein, *inter alia*, the following particulars, namely:—

- (a) name of the bond;
- (b) period of life of the bond;
- (c) the time schedule of the issue of the bond;
- (d) the amount to be paid on maturity or redemption of the bond;
- (e) the discount;
- (f) the number of bonds to be issued.

(5) The Central Government may, if the applicant fails to fulfil the conditions referred to in sub-rule (1) or sub-rule (2) or sub-rule (3), reject the application for notification after giving an opportunity of being heard to the infrastructure capital company or infrastructure capital fund or public sector company, as the case may be.

(6) Every infrastructure capital company or infrastructure capital fund or public sector company shall submit within two months from the end of each financial year referred to in sub-clause (i) or sub-clause (ii) of clause (iv) of sub-rule (3), or, as the case may be, in sub-clause (i) or sub-clause (ii) of clause (v) of sub-rule (3), a certificate from an accountant as defined in the *Explanation* to sub-section (2) of section 288, specifying the amount invested in each year.

(7) The Central Government shall have the power to withdraw the notification if the applicant fails to fulfil any of the conditions referred to in sub-rule (3) or sub-rule (6).

Explanation : For the purpose of this rule, the expressions “discount” and “period of life of the bond” shall have the same meanings respectively assigned to them in clause (i) and clause (ii) of the *Explanation* to clause (iiia) of sub-section (1) of section 36.

Computation of pro rata amount of discount on a zero coupon bond for the purpose of clause (iiia) of sub-section (1) of section 36.

8C. For the purposes of clause (iiia) of sub-section (1) of section 36, the *pro rata* amount of discount on a zero coupon bond shall be computed in the following manner, namely:—

- (a) the period of life of the bond shall be converted into number of calendar months and, for this purpose, where the calendar month in which the bond is issued or the bond matures or is redeemed contains a part of a calendar month then, if such part is fifteen days or more than fifteen days, it shall be increased to one calendar month and if such part is less than fifteen days it shall be ignored;

- (b) the amount of discount shall be divided by the number of calendar months determined in accordance with clause (a);
- (c) where one or more than one calendar month out of calendar months determined in accordance with clause (a) is or are included in a previous year, the amount determined in accordance with clause (b) shall be multiplied by the number of calendar months so included and the amount so arrived at shall be taken to be the *pro rata* amount of discount for that previous year.]

¹¹**[Method for determining amount of expenditure in relation to income not includible in total income.**

8D. (1) Where the Assessing Officer, having regard to the accounts of the assessee of a previous year, is not satisfied with—

- (a) the correctness of the claim of expenditure made by the assessee; or
- (b) the claim made by the assessee that no expenditure has been incurred,

in relation to income which does not form part of the total income under the Act for such previous year, he shall determine the amount of expenditure in relation to such income in accordance with the provisions of sub-rule (2).

(2) The expenditure in relation to income which does not form part of the total income shall be the aggregate of following amounts, namely :—

- (i) the amount of expenditure directly relating to income which does not form part of total income;
- (ii) in a case where the assessee has incurred expenditure by way of interest during the previous year which is not directly attributable to any particular income or receipt, an amount computed in accordance with the following formula, namely :—

$$A \times \frac{B}{C}$$

Where A = amount of expenditure by way of interest other than the amount of interest included in clause (i) incurred during the previous year ;

B = the average of value of investment, income from which does not or shall not form part of the total income, as appearing in the balance sheet of the assessee, on the first day and the last day of the previous year ;

C = the average of total assets as appearing in the balance sheet of the assessee, on the first day and the last day of the previous year ;

11. Inserted by the IT (Fifth Amdt.) Rules, 2008, w.e.f. 24-3-2008. For relevant case laws, see Taxmann's Master Guide to Income-tax Rules.

- (iii) an amount equal to one-half per cent of the average of the value of investment, income from which does not or shall not form part of the total income, as appearing in the balance sheet of the assessee, on the first day and the last day of the previous year.

(3) For the purposes of this rule, the "total assets" shall mean, total assets as appearing in the balance sheet excluding the increase on account of revaluation of assets but including the decrease on account of revaluation of assets.]

Royalties or copyright fees, etc., for literary or artistic work.

9. (1) Where a claim for an allocation is or has been made under section 12AA of the Indian Income-tax Act, 1922 (11 of 1922), in respect of the amount referred to in that section, it shall be dealt with in the following manner, namely:—

- (i) where the time taken by the author of the literary or artistic work in the making thereof is more than twelve but less than twenty-four months, one-half of the amount referred to in the said section shall be included in the total income of the previous year in which the whole amount is received or receivable, and the other half in the total income of the next succeeding previous year; and
- (ii) where the time so taken is twenty-four months or more, one-third of the amount referred to in the said section shall be included in the total income of the previous year in which the whole amount is received or receivable and one-third of the said amount in the total income of each of the two next succeeding previous years.

¹²(2) Where a claim for an allocation is made by an assessee under section 180* for the assessment year 1962-63 or any subsequent assessment year, it shall be dealt with in the following manner, namely:—

- (i) the tax for the assessment year relevant to the previous year in which the whole amount is received or receivable shall be—
- (a) the amount of tax payable on the total income as reduced by two-thirds of the amount referred to in section 180 included in the total income of the previous year aforesaid had the total income so reduced been his total income; *plus*
- (b) the tax on an amount equal to two-thirds of the amount referred to in section 180 included in the total income of the previous year aforesaid at the rate applicable to a total income of an amount equal to one-third of such inclusion; and
- (ii) one-third of the amount referred to in section 180 included in the total income of the previous year aforesaid shall be included in the total income of each of the two next succeeding previous years and the tax

12. See section 295(2)(f).

*Section 180 is not applicable in relation to previous year(s) relevant to assessment year(s) commencing on or after 1-4-2000.

payable, if any, in respect of each of the assessments relevant to the two said succeeding previous years shall be reduced by an amount equal to one-half of the tax referred to in sub-clause (b) of clause (i).

¹³[¹⁴**Deduction in respect of expenditure on production of feature films**¹⁵.

9A. ¹⁶[(1) In computing the profits and gains of the business of production of feature films carried on by a person (the person carrying on such business hereafter in this rule referred to as film producer), the deduction in respect of the cost of production of a feature film certified for release by the Board of Film Censors in a previous year shall be allowed in accordance with the provisions of sub-rule (2) to sub-rule (4).

Explanation : In this rule,—

- (i) “Board of Film Censors” means the Board of Film Censors constituted under the Cinematograph Act, 1952 (37 of 1952);
- (ii) “cost of production”, in relation to a feature film, means the expenditure incurred on the production of the film, not being—
 - (a) the expenditure incurred for the preparation of the positive prints of the film; and
 - (b) the expenditure incurred in connection with the advertisement of the film after it is certified for release by the Board of Film Censors:]

13. Inserted by the IT (Seventh Amdt.) Rules, 1976. Rule 9A is not *ultra vires* the provisions of the Act - *V. Varghese v. Dy. CIT (No. 2)*[1994]210 ITR 526 (Kar.). For details, see Taxmann's Master Guide to Income-tax Rules.

14. See section 295(2)(a).

15. Subsidy received by producers of regional feature films should not be treated as revenue receipt—see Circular No. 541, dated 25-7-1989 as amended by Circular No. 544, dated 15-9-1989. Post-production expenses are not includible - *CIT v. Prasad Productions (P.) Ltd.* [1989] 76 CTR (Mad.) 173. Maintenance of books of account under rule 9A(5) is mandatory for seeking deduction - *LN Poddar v. ITAT*[2010] 322 ITR 513 (Pat.). Where assessee was not a film producer but only a film distributor, in respect of films claim of cost of acquisition would come only under rule 9B(4) as against claim of assessee that it would come under rule 9A(6) - *A.M. Rathnam v. Dy. CIT*[2007] 292 ITR 126 (Mad.). It cannot be said that rule 9A has no application where film is intended to be sold to TV Channels only and not meant for theatrical release - *Vieshesh Films (P.) Ltd. v. Dy. CIT* [2008] 26 SOT 64 (Mum. - Trib.). Where assessee's claim relates to exhibition of old movies, assessee's claim for deduction would fall for consideration only under rule 9B and not under rule 9A - *Madathil Bros. v. Dy. CIT*[2008] 301 ITR 345 (Mad.). See also *CIT v. Joseph Valakuzhy*[2008] 170 Taxman 196/302 ITR 190 (SC). For details, see Taxmann's Master Guide to Income-tax Rules.

16. Substituted by the IT (Second Amdt.) Rules, 1986, w.e.f. 2-4-1986.

¹⁷**Provided** that the cost of production of a feature film, shall be reduced by the subsidy received by the film producer under any scheme framed by the Government, where such amount of subsidy has not been included in computing the total income of the assessee for any assessment year.]

(2) Where a ¹⁸[***] feature film is certified for release by the Board of Film Censors in any previous year and in such previous year,—

- (a) the film producer sells all rights of exhibition of the film, the entire cost of production of the film shall be allowed as a deduction in computing the profits and gains of such previous year; or
- (b) the film producer—
 - (i) himself exhibits the film on a commercial basis in all or some of the areas; or
 - (ii) sells the rights of exhibition of the film in respect of some of the areas; or
 - (iii) himself exhibits the film on a commercial basis in certain areas and sells the rights of exhibition of the film in respect of all or some of the remaining areas,

and the film is released for exhibition on a commercial basis at least ¹⁹[ninety] days before the end of such previous year, the entire cost of production of the film shall be allowed as a deduction in computing the profits and gains of such previous year.

(3) Where a ²⁰[***] feature film is certified for release by the Board of Film Censors in any previous year and in such previous year, the film producer—

- (a) himself exhibits the film on a commercial basis in all or some of the areas; or
- (b) sells the rights of exhibition of the film in respect of some of the areas; or
- (c) himself exhibits the film on a commercial basis in certain areas and sells the rights of exhibition of the film in respect of all or some of the remaining areas,

and the film is not released for exhibition on a commercial basis at least ²¹[ninety] days before the end of such previous year, the cost of production of the film in so far as it does not exceed the amount realised by the film producer by exhibiting the film on a commercial basis or the amount for which the rights of exhibition are sold or, as the case may be, the aggregate of the amounts realised by the film producer by exhibiting the film and by the sale of the rights of exhibition, shall be allowed as a deduction in computing the profits and gains of such previous year; and the

17. Inserted by the IT (Seventh Amdt.) Rules, 1989, w.e.f. 7-7-1989.

18. Words “regional language” omitted by the IT (Second Amdt.) Rules, 1986, w.e.f. 2-4-1986.

19. Substituted for “one hundred and eighty” by the IT (Ninth Amdt.) Rules, 1998, w.e.f. 1-4-1999. Earlier “one hundred and eighty” was substituted for “ninety” by the IT (Second Amdt.) Rules, 1986, w.e.f. 2-4-1986.

20. Words “regional language” omitted by the IT (Second Amdt.) Rules, 1986, w.e.f. 2-4-1986.

21. Substituted for “one hundred and eighty” by the IT (Ninth Amdt.) Rules, 1998, w.e.f. 1-4-1999. Earlier “one hundred and eighty” was substituted for “ninety” by the IT (Second Amdt.) Rules, 1986, w.e.f. 2-4-1986.

balance, if any, shall be carried forward to the next following previous year and allowed as a deduction in that year.

(4) Where, during the previous year in which a ²²[***] feature film is certified for release by the Board of Film Censors, the film producer does not himself exhibit the film on a commercial basis or does not sell the rights of exhibition of the film, no deduction shall be allowed in respect of the cost of production of the film in computing the profits and gains of such previous year; and the entire cost of production of the film shall be carried forward to the next following previous year and allowed as a deduction in that year.

²³[(5)] Notwithstanding anything contained in the foregoing provisions of this rule, the deduction under this rule shall not be allowed unless,—

(a) in a case where the film producer—

(i) has himself exhibited the feature film on a commercial basis; or

(ii) has sold the rights of exhibition of the feature film; or

²⁴[(iii)] has himself exhibited the feature film on a commercial basis in some areas and has sold the rights of exhibition of the feature film in respect of all or some of the remaining areas,]

the amount realised by exhibiting the film, or the amount for which the rights of exhibition have been sold or, as the case may be, the aggregate of such amounts, is credited in the books of account maintained by him in respect of the year in which the deduction is admissible;

(b) in a case where the film producer has transferred the rights of exhibition of the feature film on a minimum guarantee basis, the minimum amount guaranteed and the amount, if any, received or due in excess of the guaranteed amount or where the film producer follows cash system of accounting, the amount received towards the minimum guarantee and the amount, if any, received in excess of the guaranteed amount, are credited in the books of account maintained by him in respect of the year in which the deduction is admissible.

²⁵[(6)] Where the ²⁶[Assessing Officer] is of opinion that—

²⁷[(a)] the rights of exhibition of the feature film have been transferred by the film producer by a mode not covered by the provisions of this rule; or

²⁷[(b)] having regard to the facts and circumstances of any case, it is not practicable to apply the provisions of this rule to such case,

deduction in respect of the cost of production of the film may be allowed by the ²⁸[Assessing Officer] in such other manner as he may deem suitable.

22. Words “regional language” omitted by the IT (Second Amdt.) Rules, 1986, w.e.f. 2-4-1986.

23. Renumbered as a result of omission of sub-rule (5), *ibid.*

24. Substituted, *ibid.*

25. Renumbered as a result of omission of sub-rule (6), *ibid.*

26. Substituted for “Income-tax Officer” by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988.

27. Relettered as a result of omission of clause (a) by the IT (Second Amdt.) Rules, 1986, w.e.f. 2-4-1986.

28. Substituted for “Income-tax Officer” by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988.

²⁹[(7)] For the purposes of this rule,—

- (i) the sale of the rights of exhibition of a feature film includes the lease of such rights or their transfer on a minimum guarantee basis;
- (ii) the rights of exhibition of a feature film shall be deemed to have been sold only on the date when the positive prints of the film are delivered by the film producer to the purchaser of such rights or where in terms of the agreement between the film producer and the film distributor as defined in rule 9B, the positive prints are to be made by the film distributor, the date on which the negative of the film is delivered by the film producer to the film distributor.

²⁹[(8)] ³⁰[Nothing contained in this rule shall apply in relation to any assessment year commencing before the 1st day of April, 1987.]

³¹[***]

³²³³**Deduction in respect of expenditure on acquisition of distribution rights of feature films.**

9B. (1) In computing the profits and gains of the business of distribution of feature films carried on by a person (the person carrying on such business hereafter in this rule referred to as film distributor), the deduction in respect of the cost of acquisition of a feature film shall be allowed in accordance with sub-rule (2) to sub-rule (4).

Explanation : For the purposes of this rule, “cost of acquisition”, in relation to a feature film, means the amount paid ³⁴[by the film distributor to the film producer or to another distributor under an agreement entered into by the film distributor with such film producer or such other distributor, as the case may be] for acquiring the rights of exhibition and, where the rights of exhibition have been acquired on a minimum guarantee basis, the minimum amount guaranteed, not being—

- (i) the amount of expenditure incurred by the film distributor for the preparation of the positive prints of the film; and
- (ii) the expenditure incurred by him in connection with the advertisement of the film.

(2) Where a feature film is acquired by the film distributor in any previous year and in such previous year—

- (a) the film distributor sells all rights of exhibition of the film, the entire cost of acquisition of the film shall be allowed as a deduction in computing the profits and gains of such previous year; or

29. Renumbered as a result of omission of sub-rule (7) by the IT (Second Amtd.) Rules, 1986, w.e.f. 2-4-1986.

30. Substituted, *ibid*.

31. The Table and *Explanations 1* and *2* omitted, *ibid*.

32. Inserted by the IT (Seventh Amtd.) Rules, 1976.

33. See section 295(2)(a). For relevant case laws, see Taxmann’s Master Guide to Income-tax Rules.

34. Substituted by the IT (Second Amtd.) Rules, 1986, w.e.f. 2-4-1986.

- (b) the film distributor,—
- (i) himself exhibits the film on a commercial basis in all or some of the areas; or
 - (ii) sells the rights of exhibition of the film in respect of some of the areas; or
 - (iii) himself exhibits the film on a commercial basis in certain areas and sells the rights of exhibition of the film in respect of all or some of the remaining areas,

and the film is released for exhibition on a commercial basis at least ³⁵[ninety] days before the end of such previous year, the entire cost of acquisition of the film shall be allowed as a deduction in computing the profits and gains of such previous year.

(3) Where a feature film is acquired by the film distributor in any previous year and in such previous year the film distributor—

- (a) himself exhibits the film on a commercial basis in all or some of the areas; or
- (b) sells the rights of exhibition of the film in respect of some of the areas; or
- (c) himself exhibits the film on a commercial basis in certain areas and sells the rights of exhibition of the film in respect of all or some of the remaining areas,

and the film is not released for exhibition on a commercial basis at least ³⁵[ninety] days before the end of such previous year, the cost of acquisition of the film in so far as it does not exceed the amount realised by the film distributor by exhibiting the film on a commercial basis or the amount for which the rights of exhibition have been sold or, as the case may be, the aggregate of the amounts realised by the film distributor by exhibiting the film and by the sale of the rights of exhibition, shall be allowed as a deduction in computing the profits and gains of such previous year; and the balance, if any, shall be carried forward to the next following previous year and allowed as a deduction in that year.

(4) Where during the previous year in which a feature film is acquired by the film distributor, he does not himself exhibit the film on a commercial basis or does not sell the rights of exhibition of the film, no deduction shall be allowed in respect of the cost of acquisition of the film in computing the profits and gains of such previous year; and the entire cost of acquisition shall be carried forward to the next following previous year and allowed as a deduction in that year.

(5) Notwithstanding anything contained in the foregoing provisions of this rule, the deduction under this rule shall not be allowed unless—

- (a) in a case where the film distributor,—
 - (i) has himself exhibited the feature film on a commercial basis; or
 - (ii) has sold the rights of exhibition of the feature film; or

35. Substituted for "one hundred and eighty" by the IT (Ninth Amtd.) Rules, 1998, w.e.f. 1-4-1999. Earlier "one hundred and eighty" was substituted for "ninety" by the IT (Second Amtd.) Rules, 1986, w.e.f. 2-4-1986.

(iii) has himself exhibited the feature film on a commercial basis in some areas and has sold the rights of exhibition of the feature film in respect of all or some of the remaining areas,

the amount realised by exhibiting the film, or the amount for which the rights of exhibition have been sold, or, as the case may be, the aggregate of such amounts, is credited in the books of account maintained by him in respect of the year in which the deduction is admissible ;

(b) in a case where the film distributor has transferred the rights of exhibition of the feature film on a minimum guarantee basis, the minimum amount guaranteed and the amount, if any, received or due in excess of the guaranteed amount, or where the film distributor follows cash system of accounting, the amount received towards the minimum guarantee and the amount, if any, received in excess of the guaranteed amount, are credited in the books of account maintained by him in respect of the year in which the deduction is admissible.

(6) For the purposes of this rule,—

(i) the sale of the rights of exhibition of a feature film includes the lease of such rights or their transfer on a minimum guarantee basis ;

(ii) the rights of exhibition of a feature film shall be deemed to have been sold only on the date when the positive prints of the film are delivered by the film distributor to the purchaser of such rights ;

³⁶[(iii) distributor shall include a sub-distributor.]

³⁷[(7) Nothing contained in this rule shall apply in relation to any assessment year commencing before the 1st day of April, 1987.]

³⁸[**Conditions for carrying forward or set-off of accumulated loss and unabsorbed depreciation allowance in case of amalgamation.**

9C. The conditions referred to in clause (iii) of sub-section (2) of section 72A shall be the following, namely :—

(a) the amalgamated company, owning an industrial undertaking of the amalgamating company by way of amalgamation, shall achieve the level of production of at least fifty per cent of the installed capacity of the said undertaking before the end of four years from the date of amalgamation and continue to maintain the said minimum level of production till the end of five years from the date of amalgamation :

Provided that the Central Government, on an application made by the amalgamated company, may relax the condition of achieving the level of production or the period during which the same is to be achieved or both in suitable cases having regard to the genuine efforts made by the amalgamated company to attain the prescribed level of production and the circumstances preventing such efforts from achieving the same;

36. Inserted by the IT (Second Amdt.) Rules, 1986, w.e.f. 2-4-1986.

37. Substituted, *ibid.*

38. Inserted by the IT (Thirty-third Amdt.) Rules, 1999, w.e.f. 15-12-1999.

- (b) the amalgamated company shall furnish to the Assessing Officer a certificate in Form No. 62, duly verified by an accountant, with reference to the books of account and other documents showing particulars of production, along with the return of income for the assessment year relevant to the previous year during which the prescribed level of production is achieved and for subsequent assessment years relevant to the previous years falling within five years from the date of amalgamation.

Explanation.—For the purposes of this rule,—

- (a) “installed capacity” means the capacity of production existing on the date of amalgamation; and
- (b) “accountant” means the accountant as defined in the *Explanation* below sub-section (2) of section 288 of the Income-tax Act, 1961.]

³⁹**Determination of income in the case of non-residents.**

10. In any case in which the ⁴⁰[Assessing Officer] is of opinion that the actual amount of the income accruing or arising to any non-resident person whether directly or indirectly, through or from any business connection in India or through or from any property in India or through or from any asset or source of income in India or through or from any money lent at interest and brought into India in cash or in kind cannot be definitely ascertained, the amount of such income for the purposes of assessment to income-tax ⁴¹[* * *] may be calculated :—

- (i) at such percentage of the turnover so accruing or arising as the ⁴⁰[Assessing Officer] may consider to be reasonable, or

39. See sections 9, 92 and 295(2)(b)(i).

Once a particular method has been chosen by Assessing Officer, reassessment for choosing a better method is not permissible - *CIT v. Simon Carves Ltd.* [1976] 105 ITR 212 (SC). Apportionment of profits should be rational and not arbitrary - *Annamalais Timber Trust & Co. v. CIT* [1961] 41 ITR 781 (Mad.). Court will not interfere if Assessing Officer has made a fair estimate - *Hukumchand Mills Ltd. v. CIT* [1968] 70 ITR 450 (Bom.)/ *CIT v. Mewar Textile Mills Ltd.* [1966] 60 ITR 423 (SC). Even if estimate is based on guesswork, court might not interfere if assessee has not placed proper material justifying a more definite and certain apportionment - *Blue Star Engg. Co. (Bombay) (P.) Ltd. v. CIT* [1969] 73 ITR 283 (Bom.). Power to compute under third alternative is very wide - *Ellerman Lines Ltd. v. CIT* [1971] 82 ITR 913 (SC). Transactions unconnected with business must be ignored. Subvention payments by associate concerns must be excluded - *CIT v. Indian Textile Engineers (P.) Ltd.* [1983] 141 ITR 69 (Bom.). Destination earnings are part of Indian earnings - *CIT v. Ellerman Lines Ltd.* [1970] 75 ITR 47 (Cal.). Absence fee paid to foreign collaborator is income of foreign company - *CIT v. Yamatake Honeywell Co. Ltd.* [1994] 76 Taxman 26 (Raj.). In the computation of world income of shipping business, additions towards adjustments of foreign currency, compensation received on account of general average and interest earned on discount, are not excludible - *CIT v. Shinwa Kaikum Kaisha Ltd.* [1987] 165 ITR 270 (Cal.). While computing the income under second method, full depreciation must be allowed - *CIT v. Nandlal Bhandari Mills Ltd.* [1966] 60 ITR 173 (SC). Limitation on head office expenses under section 44AC cannot be applied - *CIT v. Saudi Arabian Airlines* [1985] 155 ITR 65 (Bom.). For details, see Taxmann's Master Guide to Income-tax Rules.

40. Substituted for “Income-tax Officer” by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988.

41. Words “and super-tax” omitted by the IT (Amdt.) Rules, 1967, w.e.f. 13-2-1967.

- (ii) on any amount which bears the same proportion to the total profits and gains of the business of such person (such profits and gains being computed in accordance with the provisions of the Act), as the receipts so accruing or arising bear to the total receipts of the business, or
- (iii) in such other manner as the ⁴²[Assessing Officer] may deem suitable.

⁴³[Meaning of expressions used in computation of arm's length price.⁴⁴

10A. For the purposes of this rule and rules 10B to 10E,—

- (a) “uncontrolled transaction” means a transaction between enterprises other than associated enterprises, whether resident or non-resident;
- (b) “property” includes goods, articles or things, and intangible property;
- (c) “services” include financial services;
- (d) “transaction” includes a number of closely linked transactions.

Determination of arm's length price under section 92C.

10B. (1) For the purposes of sub-section (2) of section 92C, the arm's length price in relation to an international transaction shall be determined by any of the following methods, being the most appropriate method, in the following manner, namely :—

- (a) comparable uncontrolled price method, by which,—
 - (i) the price charged or paid for property transferred or services provided in a comparable uncontrolled transaction, or a number of such transactions, is identified;
 - (ii) such price is adjusted to account for differences, if any, between the international transaction and the comparable uncontrolled transactions or between the enterprises entering into such transactions, which could materially affect the price in the open market;
 - (iii) the adjusted price arrived at under sub-clause (ii) is taken to be an arm's length price in respect of the property transferred or services provided in the international transaction;
- (b) resale price method, by which,—
 - (i) the price at which property purchased or services obtained by the enterprise from an associated enterprise is resold or are provided to an unrelated enterprise, is identified;
 - (ii) such resale price is reduced by the amount of a normal gross profit margin accruing to the enterprise or to an unrelated enterprise from

42. Substituted for “Income-tax Officer” by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988.

43. Rules 10A to 10E inserted by the IT (Twenty-first Amdt.) Rules, 2001, w.e.f. 21-8-2001.

44. See also Circular No. 12/2001, dated 23-8-2001, Instruction No. 3/2003, dated 20-5-2003 and Instruction No. 8/2003, dated 11-8-2003. For details, see Taxmann's Master Guide to Income-tax Rules.

For complete analysis of Case Laws, see Taxmann's Master Guide to Income-tax Rules.

- the purchase and resale of the same or similar property or from obtaining and providing the same or similar services, in a comparable uncontrolled transaction, or a number of such transactions;
- (iii) the price so arrived at is further reduced by the expenses incurred by the enterprise in connection with the purchase of property or obtaining of services;
 - (iv) the price so arrived at is adjusted to take into account the functional and other differences, including differences in accounting practices, if any, between the international transaction and the comparable uncontrolled transactions, or between the enterprises entering into such transactions, which could materially affect the amount of gross profit margin in the open market;
 - (v) the adjusted price arrived at under sub-clause (iv) is taken to be an arm's length price in respect of the purchase of the property or obtaining of the services by the enterprise from the associated enterprise;
- (c) cost plus method, by which,—
- (i) the direct and indirect costs of production incurred by the enterprise in respect of property transferred or services provided to an associated enterprise, are determined;
 - (ii) the amount of a normal gross profit mark-up to such costs (computed according to the same accounting norms) arising from the transfer or provision of the same or similar property or services by the enterprise, or by an unrelated enterprise, in a comparable uncontrolled transaction, or a number of such transactions, is determined;
 - (iii) the normal gross profit mark-up referred to in sub-clause (ii) is adjusted to take into account the functional and other differences, if any, between the international transaction and the comparable uncontrolled transactions, or between the enterprises entering into such transactions, which could materially affect such profit mark-up in the open market;
 - (iv) the costs referred to in sub-clause (i) are increased by the adjusted profit mark-up arrived at under sub-clause (iii);
 - (v) the sum so arrived at is taken to be an arm's length price in relation to the supply of the property or provision of services by the enterprise;
- (d) profit split method, which may be applicable mainly in international transactions involving transfer of unique intangibles or in multiple international transactions which are so interrelated that they cannot be evaluated separately for the purpose of determining the arm's length price of any one transaction, by which—
- (i) the combined net profit of the associated enterprises arising from the international transaction in which they are engaged, is determined;

- (ii) the relative contribution made by each of the associated enterprises to the earning of such combined net profit, is then evaluated on the basis of the functions performed, assets employed or to be employed and risks assumed by each enterprise and on the basis of reliable external market data which indicates how such contribution would be evaluated by unrelated enterprises performing comparable functions in similar circumstances;
- (iii) the combined net profit is then split amongst the enterprises in proportion to their relative contributions, as evaluated under sub-clause (ii);
- (iv) the profit thus apportioned to the assessee is taken into account to arrive at an arm's length price in relation to the international transaction :

Provided that the combined net profit referred to in sub-clause (i) may, in the first instance, be partially allocated to each enterprise so as to provide it with a basic return appropriate for the type of international transaction in which it is engaged, with reference to market returns achieved for similar types of transactions by independent enterprises, and thereafter, the residual net profit remaining after such allocation may be split amongst the enterprises in proportion to their relative contribution in the manner specified under sub-clauses (ii) and (iii), and in such a case the aggregate of the net profit allocated to the enterprise in the first instance together with the residual net profit apportioned to that enterprise on the basis of its relative contribution shall be taken to be the net profit arising to that enterprise from the international transaction;

- (e) transactional net margin method, by which,—
 - (i) the net profit margin realised by the enterprise from an international transaction entered into with an associated enterprise is computed in relation to costs incurred or sales effected or assets employed or to be employed by the enterprise or having regard to any other relevant base;
 - (ii) the net profit margin realised by the enterprise or by an unrelated enterprise from a comparable uncontrolled transaction or a number of such transactions is computed having regard to the same base;
 - (iii) the net profit margin referred to in sub-clause (i) arising in comparable uncontrolled transactions is adjusted to take into account the differences, if any, between the international transaction and the comparable uncontrolled transactions, or between the enterprises entering into such transactions, which could materially affect the amount of net profit margin in the open market;
 - (iv) the net profit margin realised by the enterprise and referred to in sub-clause (i) is established to be the same as the net profit margin referred to in sub-clause (iii);

- (v) the net profit margin thus established is then taken into account to arrive at an arm's length price in relation to the international transaction.

(2) For the purposes of sub-rule (1), the comparability of an international transaction with an uncontrolled transaction shall be judged with reference to the following, namely:—

- (a) the specific characteristics of the property transferred or services provided in either transaction;
- (b) the functions performed, taking into account assets employed or to be employed and the risks assumed, by the respective parties to the transactions;
- (c) the contractual terms (whether or not such terms are formal or in writing) of the transactions which lay down explicitly or implicitly how the responsibilities, risks and benefits are to be divided between the respective parties to the transactions;
- (d) conditions prevailing in the markets in which the respective parties to the transactions operate, including the geographical location and size of the markets, the laws and Government orders in force, costs of labour and capital in the markets, overall economic development and level of competition and whether the markets are wholesale or retail.

(3) An uncontrolled transaction shall be comparable to an international transaction if—

- (i) none of the differences, if any, between the transactions being compared, or between the enterprises entering into such transactions are likely to materially affect the price or cost charged or paid in, or the profit arising from, such transactions in the open market; or
- (ii) reasonably accurate adjustments can be made to eliminate the material effects of such differences.

(4) The data to be used in analysing the comparability of an uncontrolled transaction with an international transaction shall be the data relating to the financial year in which the international transaction has been entered into :

Provided that data relating to a period not being more than two years prior to such financial year may also be considered if such data reveals facts which could have an influence on the determination of transfer prices in relation to the transactions being compared.

Most appropriate method.

10C. (1) For the purposes of sub-section (1) of section 92C, the most appropriate method shall be the method which is best suited to the facts and circumstances of each particular international transaction, and which provides the most reliable measure of an arm's length price in relation to the international transaction.

(2) In selecting the most appropriate method as specified in sub-rule (1), the following factors shall be taken into account, namely:—

- (a) the nature and class of the international transaction;

- (b) the class or classes of associated enterprises entering into the transaction and the functions performed by them taking into account assets employed or to be employed and risks assumed by such enterprises;
- (c) the availability, coverage and reliability of data necessary for application of the method;
- (d) the degree of comparability existing between the international transaction and the uncontrolled transaction and between the enterprises entering into such transactions;
- (e) the extent to which reliable and accurate adjustments can be made to account for differences, if any, between the international transaction and the comparable uncontrolled transaction or between the enterprises entering into such transactions;
- (f) the nature, extent and reliability of assumptions required to be made in application of a method.

Information and documents to be kept and maintained under section 92D.

- 10D.** (1) Every person who has entered into an international transaction shall keep and maintain the following information and documents, namely:—
- (a) a description of the ownership structure of the assessee enterprise with details of shares or other ownership interest held therein by other enterprises;
 - (b) a profile of the multinational group of which the assessee enterprise is a part along with the name, address, legal status and country of tax residence of each of the enterprises comprised in the group with whom international transactions have been entered into by the assessee, and ownership linkages among them;
 - (c) a broad description of the business of the assessee and the industry in which the assessee operates, and of the business of the associated enterprises with whom the assessee has transacted;
 - (d) the nature and terms (including prices) of international transactions entered into with each associated enterprise, details of property transferred or services provided and the quantum and the value of each such transaction or class of such transaction;
 - (e) a description of the functions performed, risks assumed and assets employed or to be employed by the assessee and by the associated enterprises involved in the international transaction;
 - (f) a record of the economic and market analyses, forecasts, budgets or any other financial estimates prepared by the assessee for the business as a whole and for each division or product separately, which may have a bearing on the international transactions entered into by the assessee;
 - (g) a record of uncontrolled transactions taken into account for analysing their comparability with the international transactions entered into, including a record of the nature, terms and conditions relating to any uncontrolled transaction with third parties which may be of relevance to the pricing of the international transactions;

- (h) a record of the analysis performed to evaluate comparability of uncontrolled transactions with the relevant international transaction;
- (i) a description of the methods considered for determining the arm's length price in relation to each international transaction or class of transaction, the method selected as the most appropriate method along with explanations as to why such method was so selected, and how such method was applied in each case;
- (j) a record of the actual working carried out for determining the arm's length price, including details of the comparable data and financial information used in applying the most appropriate method, and adjustments, if any, which were made to account for differences between the international transaction and the comparable uncontrolled transactions, or between the enterprises entering into such transactions;
- (k) the assumptions, policies and price negotiations, if any, which have critically affected the determination of the arm's length price;
- (l) details of the adjustments, if any, made to transfer prices to align them with arm's length prices determined under these rules and consequent adjustment made to the total income for tax purposes;
- (m) any other information, data or document, including information or data relating to the associated enterprise, which may be relevant for determination of the arm's length price.

(2) Nothing contained in sub-rule (1) shall apply in a case where the aggregate value, as recorded in the books of account, of international transactions entered into by the assessee does not exceed one crore rupees :

Provided that the assessee shall be required to substantiate, on the basis of material available with him, that income arising from international transactions entered into by him has been computed in accordance with section 92.

(3) The information specified in sub-rule (1) shall be supported by authentic documents, which may include the following :

- (a) official publications, reports, studies and data bases from the Government of the country of residence of the associated enterprise, or of any other country;
- (b) reports of market research studies carried out and technical publications brought out by institutions of national or international repute;
- (c) price publications including stock exchange and commodity market quotations;
- (d) published accounts and financial statements relating to the business affairs of the associated enterprises;
- (e) agreements and contracts entered into with associated enterprises or with unrelated enterprises in respect of transactions similar to the international transactions;
- (f) letters and other correspondence documenting any terms negotiated between the assessee and the associated enterprise;
- (g) documents normally issued in connection with various transactions under the accounting practices followed.

(4) The information and documents specified under sub-rules (1) and (2), should, as far as possible, be contemporaneous and should exist latest by the specified date referred to in clause (iv) of section 92F:

Provided that where an international transaction continues to have effect over more than one previous year, fresh documentation need not be maintained separately in respect of each previous year, unless there is any significant change in the nature or terms of the international transaction, in the assumptions made, or in any other factor which could influence the transfer price, and in the case of such significant change, fresh documentation as may be necessary under sub-rules (1) and (2) shall be maintained bringing out the impact of the change on the pricing of the international transaction.

(5) The information and documents specified in sub-rules (1) and (2) shall be kept and maintained for a period of eight years from the end of the relevant assessment year.

Report from an accountant to be furnished under section 92E.

10E. The report from an accountant required to be furnished under section 92E by every person who has entered into an international transaction during a previous year shall be in Form No. 3CEB and be verified in the manner indicated therein.]

⁴⁵**Determination of income from transactions with non-residents.**

11. [Omitted by the IT (Twenty-first Amdt.) Rules, 2001, w.e.f. 21-8-2001.]

E.—Deductions to be made in computing total income

⁴⁶**[Medical authority for certifying autism, cerebral palsy and multiple disabilities and certificate to be obtained from the medical authority for the purposes of deduction under section 80DD and section 80U.**

11A. (1) For the purposes of clause (e) of the *Explanation* to sub-section (4) of section 80DD and clause (d) of the *Explanation* to sub-section (2) of section 80U, the medical authority for certifying “autism”, “cerebral palsy”, “multiple disabilities”, “person with disability” and “severe disability” referred to in clauses (a), (c), (h), (j) and (o) of section 2 of the National Trust for Welfare of Persons with

45. Prior to its omission, rule 11 as amended by the IT (Amdt.) Rules, 1967, read as under :

“11. *Determination of income from transactions with non-residents.*—The profits and gains derived from any business carried on in the manner referred to in section 92 may be determined for the purposes of assessment to income-tax according to rule 10.”

46. Substituted by the IT (Eighteenth Amdt.) Rules, 2005, w.e.f. 29-6-2005. Prior to its substitution, rule 11A, as substituted by the IT (Twentieth Amdt.) Rules, 2003, w.r.e.f. 1-4-2003, read as under :

“11A. *Certificate to be obtained from the medical authority for the purposes of deduction under section 80DD and section 80U.*—(1) For the purposes of sub-section (4) of section 80DD and sub-section (2) of section 80U, the assessee shall furnish along with the return of income, a copy of the certificate issued by the medical authority in the form prescribed *vide* Notification No. 16-18/97-NI.1, dated 1st June, 2001, published in the Gazette of India, Part I, section 1, dated 13th June, 2001 and Notification No. 16-18/97-NI.1, dated 18th February, 2002 published in the Gazette of India, Part I, section 1, dated 27th February, 2002 and notified under the Guidelines for evaluation of various disabilities and procedure for certification, keeping in view the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 (1 of 1996).

(Contd. on p. 1.111)

Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999 (44 of 1999)⁴⁷, shall consist of the following,—

- (i) a Neurologist having a degree of Doctor of Medicine (MD) in Neurology (in case of children, a Paediatric Neurologist having an equivalent degree); or
- (ii) a Civil Surgeon or Chief Medical Officer in a Government hospital.

(2) For the purposes of sub-section (4) of section 80DD and sub-section (2) of section 80U, the assessee shall furnish along with the return of income, a copy of the certificate issued by the medical authority,—

- (i) in Form No. 10-IA, where the person with disability or severe disability is suffering from autism, cerebral palsy or multiple disability; or
- (ii) in the form prescribed *vide* notification No. 16-18/97-NI.1, dated the 1st June, 2001⁴⁷ published in the Gazette of India, Part I, Section 1, dated the 13th June, 2001 and Notification No. 16-18/97-NI.1, dated the 18th February, 2002⁴⁷ published in the Gazette of India, Part I, Section 1, dated the 27th February, 2002 and notified under the Guidelines for evaluation of various disabilities and procedure for certification, keeping in view the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 (1 of 1996), in any other case.

(3) Where the condition of disability is temporary and requires reassessment after a specified period, the certificate shall be valid for the period starting from the assessment year relevant to the previous year during which the certificate was issued and ending with the assessment year relevant to the previous year during which the validity of the certificate expires.]

⁴⁸[**Requirements for approval of an institution or fund under section 80G.**

11AA. (1) The application for approval of any institution or fund under clause (vi) of sub-section (5) of section 80G shall be in Form No. 10G and shall be made in triplicate.

(2) The application shall be accompanied by the following documents, namely :—

- (i) Copy of registration granted under section 12A or copy of notification issued under section 10(23) or 10(23C) ;
- (ii) Notes on activities of institution or fund since its inception or during the last three years, whichever is less ;
- (iii) Copies of accounts of the institution or fund since its inception or during the last three years, whichever is less.

(Contd. from p. 1.110)

(2) Where the condition of disability is temporary and requires reassessment after a specified period, the certificate shall be valid for the period starting from the assessment year relevant to the previous year during which the certificate was issued and ending with the assessment year relevant to the previous year during which the validity of the certificate expires.”

Earlier rule 11A was inserted by the IT (Third Amdt.) Rules, 1992, w.r.e.f. 1-4-1991. Original rule 11A was inserted by the IT (Amdt.) Rules, 1967 and later on amended by the IT (Second Amdt.) Rules, 1968/1976, IT (Seventh Amdt.) Rules, 1980, IT (Amdt.) Rules, 1982 and omitted by the IT (Ninth Amdt.) Rules, 1983, w.e.f. 1-4-1984.

47. See **Appendix**.

48. Inserted by the IT (Seventeenth Amdt.) Rules, 1992, w.e.f. 21-9-1992.

(3) The Commissioner may call for such further documents or information from the institution or fund or cause such inquiries to be made as he may deem necessary in order to satisfy himself about the genuineness of the activities of such institution or fund.

(4) Where the Commissioner is satisfied that all the conditions laid down in clauses (i) to (v) of sub-section (5) of section 80G are fulfilled by the institution or fund, he shall record such satisfaction in writing and grant approval to the institution or fund specifying the assessment year or years for which the approval is valid^{48a}.

(5) Where the Commissioner is satisfied that one or more of the conditions laid down in clauses (i) to (v) of sub-section (5) of section 80G are not fulfilled, he shall reject the application for approval, after recording the reasons for such rejection in writing :

Provided that no order of rejection of an application shall be passed without giving the institution or fund an opportunity of being heard⁴⁹.

(6) The time limit within which the Commissioner shall pass an order either granting the approval or rejecting the application shall not exceed six months from the date on which such application was made :

Provided that in computing the period of six months, any time taken by the applicant in not complying with the directions of the Commissioner under sub-rule (3) shall be excluded.]

⁵⁰[**Conditions for allowance for deduction under section 80GG.**⁵¹

11B. The deduction to be allowed under section 80GG in respect of any expenditure incurred by an assessee towards payment of rent for any furnished or unfurnished accommodation occupied by him for the purposes of his own residence

48a. See also Circular No. 7/2010, dated 27-10-2010. For details see Taxmann's Master Guide to Income-tax Rules.

49. Proviso to sub-rule (5) of rule 11AA clearly casts a burden on DIT(E), while rejecting any application filed under section 80G, to record in writing reasons for such rejection and to give an opportunity to concerned institution of being heard - *Uddar Bharti v. DIT (Exemption)* [2008] 24 SOT 147 (Delhi - Trib.). Neither in main sub-section (5) of section 80G nor rules made thereunder there is any provisions to refuse recognition or continuation thereof only on ground that particulars of donors are not provided by institution or fund - *Kalyanam Koroti v. CIT* [2009] 314 ITR (AT) 295 (Luck. - Trib.).

50. Substituted by the IT (Nineteenth Amdt.) Rules, 1998, w.e.f. 13-10-1998. Prior to its substitution, rule 11B, as inserted by the IT (Fourth Amdt.) Rules, 1976, w.e.f. 2-4-1976 and amended by the IT (Third Amdt.) Rules, 1981, read as under :

'11B. *Condition for allowance of deduction under section 80GG.*—The deduction to be allowed under section 80GG in respect of any expenditure incurred by an assessee towards payment of rent for any furnished or unfurnished accommodation occupied by him for the purposes of his own residence shall be allowed subject to the condition that the accommodation is situated in any one of the following places, namely :—

- (i) Agra, Ahmedabad, Allahabad, Amritsar, Bangalore, Bhopal, Calcutta, Coimbatore, Delhi, Faridabad, Gwalior (Lashkar), Hyderabad, Indore, Jabalpur, Jaipur, Kanpur, Lucknow, Ludhiana City, Madurai, Nagpur, Patna, Poona, Srinagar, Surat, Vadodara (Baroda) or Varanasi (Benaras) or the urban agglomeration of each of such places ; or
- (ii) Bombay, Calicut, Cochin, Ghaziabad, Hubli-Dharwar, Madras, Sholapur, Trivandrum or Vishakhapatnam.

Explanation : "Urban agglomeration", in relation to a place referred to in this rule, means the area for the time being included in the urban agglomeration of such place for the purpose of grant of house rent allowance by the Central Government to its employees under the orders issued by it from time to time in this regard.'

51. See section 295(2)(ee).

shall be allowed subject to the condition that the assessee files the declaration in Form No. 10BA.]

⁵²**[Prescribed fields for the purposes of deduction in respect of remuneration received from foreign employers or Indian concerns under section 80RRA.**

11C. For the purposes of clause (vi) of *Explanation* ⁵³[2] to section 80RRA, the prescribed fields shall be,—

- (a) the profession of actuaries ;
- (b) banking ;
- (c) insurance; and
- (d) journalism.]

Permanent physical disabilities for the purposes of deduction under section 80U.

11D. ⁵⁴[*Omitted by the IT (Twentieth Amdt.) Rules, 2003, w.r.e.f. 1-4-2003.*]

52. Substituted by the IT (Second Amdt.) Rules, 1988, w.e.f. 31-5-1988. Earlier, rule 11C was inserted by the IT (Sixth Amdt.) Rules, 1976. No deduction under section 80RRA is allowable from the assessment year 2005-06 onwards. Consequently, rule 11C has become inoperative with effect from 1-4-2005.

In view of the use of the word “remuneration” instead of “salary” in section 80RRA, fees received by consultant or technician are also covered under that provision - *CBDT v. Aditya V. Birla*[1988] 170 ITR 137 (SC). Nature of service rendered abroad need not be as technician; what is required is that person rendering service is a technician - *Taru Jethmal Lalvani v. Secretary, Ministry of Finance, Department of Revenue* [1990] 185 ITR 418 (Bom.). Contract between parties need not establish employer-employee relationship - *Smt. Kunti Verma v. CBDT*[1996] 220 ITR 120 (Delhi). It is not necessary for a technician to be physically outside India for purpose of claiming deduction for any service rendered by him outside India - *A.S. Mani v. Union of India* [2003] 131 Taxman 717/264 ITR 5 (Kar.). For details, see Taxmann’s Master Guide to Income-tax Rules.

53. Figure “2” should be omitted as there is only one *Explanation* to section 80RRA.

54. Prior to its omission, rule 11D, as inserted by the IT (Fourth Amdt.) Rules, 1985, w.e.f. 1-4-1985 and later on substituted by the IT (Third Amdt.) Rules, 1992, w.r.e.f. 1-4-1990/1-4-1992, read as under :

“11D. *Permanent physical disabilities for the purposes of deduction under section 80U.*—For the purposes of section 80U,—

- (i) permanent physical disability shall be regarded as a permanent physical disability if it falls in any one of the categories specified below, namely :—
 - (a) permanent physical disability of more than 50 per cent in one limb ; or
 - (b) permanent physical disability of more than 60 per cent in two or more limbs; or
 - (c) permanent deafness with hearing impairment of 71 decibels and above ; or
 - (d) permanent and total loss of voice ;
- (ii) mental retardation shall be regarded as a mental retardation if intelligence quotient is less than 50 on a test with a mean of 100 and a standard deviation of 15 such as the Wechsle scale;
- (iii) blindness shall be regarded as a permanent physical disability, if it is incurable and falls in any one of the categories specified below, namely :—

<i>All with corrections</i>	
<i>Better eye</i>	<i>Worse eye</i>
(a) 6/60 - 4/60 or Field of vision 110 - 20	3/60 to Nil

(Contd. on p. 1.114)

⁵⁵**[Specified diseases and ailments for the purpose of deduction under section 80DDB.]**

11DD. (1) For the purposes of section 80DDB, the following shall be the eligible diseases or ailments :

- (i) Neurological Diseases where the disability level has been certified to be of 40% and above,—
 - (a) Dementia ;
 - (b) Dystonia Musculorum Deformans ;
 - (c) Motor Neuron Disease ;
 - (d) Ataxia ;
 - (e) Chorea ;

(Contd. from p. 1.113)

<i>Better eye</i>	<i>All with corrections</i>	<i>Worse eye</i>
(b) 3/60 to 1/60 or Field of vision 100		F.C. at 1 foot to Nil
(c) F.C. at 1 foot to Nil or Field of vision 100		F.C. at 1 foot to Nil or Field of vision 100
(d) Total absence of sight		Total absence of sight."

55. Substituted by the IT (Twenty-fifth Amdt.) Rules, 2003, w.r.e.f. 1-4-2003. Prior to its substitution, rule 11DD, as inserted by the IT (Third Amdt.) Rules, 1997, w.e.f. 11-3-1997, read as under :

"11DD. *Specified diseases and ailments for the purpose of deduction under section 80DDB.*—

(1) For the purposes of section 80DDB, the specified diseases and ailments shall be as under :—

- (i) Neurological diseases
 - (a) Dementia
 - (b) Dystonia Musculorum Deformans
 - (c) Motor Neuron Disease
 - (d) Ataxia
 - (e) Chorea
 - (f) Hemiballismus
 - (g) Aphasia
 - (h) Parkinsons Disease

Explanation.—For the purposes of this rule the abovementioned diseases shall be treated as chronic and protracted, if the disability has been certified to be 40% and above.

- (ii) Cancer
- (iii) Full Blown Acquired Immuno-Deficiency Syndrome (AIDS)
- (iv) Chronic Renal failure
- (v) Hemophilia
- (vi) Thalassaemia.

(2) For the purposes of section 80DDB, the prescribed authority shall be any doctor registered with the Indian Medical Association with post-graduate qualifications.

(3) The certificate shall be from the prescribed authority in Form No. 10-I."

- (f) Hemiballismus ;
- (g) Aphasia ;
- (h) Parkinsons Disease ;
- (ii) Malignant Cancers ;
- (iii) Full Blown Acquired Immuno-Deficiency Syndrome (AIDS) ;
- (iv) Chronic Renal failure ;
- (v) Hematological disorders :
 - (i) Hemophilia ;
 - (ii) Thalassaemia.

(2) The certificate in respect of the diseases or ailments specified in sub-rule (1) shall be issued by the following specialists working in a Government hospital—

- (a) for diseases or ailments mentioned in clause (i) of sub-rule (1) - a Neurologist having a Doctorate of Medicine (D.M.) degree in Neurology or any equivalent degree, which is recognised by the Medical Council of India;
- (b) for diseases or ailments mentioned in clause (ii) of sub-rule (1) - an Oncologist having a Doctorate of Medicine (D.M.) degree in Oncology or any equivalent degree which is recognised by the Medical Council of India;
- (c) for diseases or ailments mentioned in clause (iv) of sub-rule (1) - a Nephrologist having a Doctorate of Medicine (D.M.) degree in Nephrology or a Urologist having a Master of Chirurgiae (M.Ch.) degree in Urology or any equivalent degree, which is recognised by the Medical Council of India;
- (d) for diseases or ailments mentioned in clause (v) of sub-rule (1) - a specialist having a Doctorate of Medicine (D.M.) degree in Hematology or any equivalent degree, which is recognised by the Medical Council of India :

Provided that where in respect of any diseases or ailments specified in sub-rule (1), no specialist has been specified or where the specialist specified is not posted in the Government hospital in which the patient is receiving the treatment, such certificate, with prior approval of the Head of that hospital, may be issued by any other specialist working full-time in that hospital and having a post-graduate degree in General or Internal Medicine, which is recognised by the Medical Council of India.

(3) The certificate from the prescribed authority to be furnished along with the return of income shall be in Form No. 10-I.]

Application for approval of agreement under section 80-O.

⁵⁶11E. [Omitted by the IT (Thirty-second Amtd.) Rules, 1999, w.e.f. 19-11-1999.]

56. Prior to its omission, rule 11E, as inserted by the IT (Tenth Amtd.) Rules, 1988, w.e.f. 1-4-1989, read as under :

"11E. *Application for approval of agreement under section 80-O.*—The application to the Chief Commissioner or the Director General, as the case may be, under the proviso to section 80-O for approval of any agreement shall be in Form No. 10F."

⁵⁷[Guidelines for specifying industrially backward districts for the purpose of deduction under ⁵⁸[sub-section (5) of section 80-IB].

11EA. ⁵⁹[(1)] In specifying a district for notification as an industrially backward district ⁵⁹[of Category 'A'] under ⁵⁸[sub-section (5) of section 80-IB], the Central Government shall satisfy itself that,—

- (a) the district has a “Total Weighted Index Count” of 250 or less in the “All India Gradation List” appended in Appendix III of these rules; or
- (b) the district is a “no industry” district as indicated in the “All India Gradation List” mentioned in clause (a); or
- (c) the district is an inaccessible hill area district as indicated in the Eighth Plan Document and has a “Total Weighted Index Count” of 500 or less in the “All India Gradation List” mentioned in clause (a); or
- (d) the district has no railhead as on 1-4-1994 and has a “Total Weighted Index Count” of 500 or less in the “All India Gradation List” mentioned in clause (a).

Explanation: A district notified under these rules, shall be based on the districts as they stood in the Census Report of 1991. Where a district notified under these rules, is reorganised, either by split or otherwise, after the Census Report of 1991 all the areas comprised in the district as it existed in the Census Report of 1991 will qualify for the purpose of these rules.]

⁶⁰[(2) In specifying a district for notification as an industrially backward district of category 'B' under ⁶¹[sub-section (5) of section 80-IB,] the Central Government shall satisfy itself that,—

- (a) the district has a “Total Weighted Index Count” of more than 250 but less than or equal to 500 in the “All India Gradation List” as indicated in the “All India Gradation List” mentioned in clause (a) of sub-rule (1) :

Provided that no district shall be notified under this sub-rule if such district has been notified under sub-rule (1).]

⁶²[EE.—Statement under the simplified procedure for taxation of retail traders, etc., under Chapter XII-C

Form of statement to be furnished under section 115K.

11EE. ⁶³[Omitted by the IT (Thirty-second Amdt.) Rules, 1999, w.e.f. 19-11-1999.]

57. Inserted by the IT (Ninth Amdt.) Rules, 1997, w.r.e.f. 1-10-1994.

58. Substituted for “sub-clause (c) of clause (iv) of sub-section (2) of section 80-IA” by the IT (Seventeenth Amdt.) Rules, 1999, w.e.f. 1-4-2000.

59. Inserted by the IT (Eleventh Amdt.) Rules, 1997, w.r.e.f. 1-10-1994. See Notification No. SO 440(E), dated 15-6-1999. For details, see Taxmann’s Master Guide to Income-tax Rules.

60. Inserted, *ibid.*

61. Substituted for “sub-clause (c) of clause (iv) of sub-section (2) of section 80-IA” by the IT (Seventeenth Amdt.) Rules, 1999, w.e.f. 1-4-2000.

62. Inserted by the IT (Fourteenth Amdt.) Rules, 1992, w.e.f. 2-7-1992.

63. Prior to its omission, rule 11EE, as inserted by the IT (Fourteenth Amdt.) Rules, 1992, w.e.f. 2-7-1992 and later amended by the IT (Eighteenth Amdt.) Rules, 1992, w.e.f. 30-9-1992, IT

(Contd. on p. 1.117)

⁶⁴[*F.—National Committee for Promotion of Social and Economic Welfare*

General.

11F. In this sub-part “National Committee” means the National Committee defined in section 35AC.

Composition of the National Committee.

11G. (1) The National Committee shall consist of fourteen members appointed by the Central Government from amongst persons of eminence in public life.

(2) The term of office of a member shall be for three years commencing on the date of notification.

⁶⁵[(3) One of the members of the National Committee shall be appointed as Chairman by the Central Government. In the event of vacancy of the office of Chairman for any reason and until a new Chairman is appointed, no meeting of the National Committee shall be held :

Provided that if for any meeting, the Chairman is absent, the members present for the meeting may elect one amongst themselves to preside over the day’s sitting.]

(4) The National Committee may appoint one or more sub-committees from among its members for looking into specific areas of activity from time to time. The National Committee may invite any expert to examine any matter of technical nature.

Headquarters and Secretariat.

11H. (1) The headquarters of the National Committee shall be at New Delhi. Its sittings shall take place at New Delhi or such other place as the Central Government may decide.

(2) Secretariat to the Committee will be provided by the Department of Revenue, Ministry of Finance, Government of India and a Joint Secretary to the Government of India, in the Department of Revenue shall act as Secretary to the Committee.

Functions.

11-I. The functions of the National Committee shall be—

(Contd. from p. 1.116)

(Twelfth Amdt.) Rules, 1993, w.e.f. 13-8-1993, IT (Sixth Amdt.) Rules, 1994, w.e.f. 7-6-1994, IT (Thirteenth Amdt.) Rules, 1995, w.e.f. 19-7-1995 and IT (Fifth Amdt.) Rules, 1996, w.e.f. 21-11-1996, read as under :

“11EE. *Form of statement to be furnished under section 115K.*—(1) The statement which is required to be submitted by any person under the provisions of section 115K shall be in Form No. 4A and shall be verified in the manner indicated therein.

(2) The form shall be in duplicate and shall also serve as a challan for the payment of tax under the provisions of sub-section (3) of section 115K.”

64. Inserted by the IT (First Amdt.) Rules, 1992, w.e.f. 2-1-1992.

65. Substituted by the IT (Fourth Amdt.) Rules, 1993, w.e.f. 5-3-1993. Prior to its substitution, sub-rule (3), as inserted by the IT (First Amdt.) Rules, 1992, w.e.f. 2-1-1992, read as under :

“(3) One of the members of the National Committee shall be appointed as Chairman by the Central Government. In the event of vacancy of the office of Chairman for any reason and until a new Chairman is appointed, any other member may be elected by the National Committee to fill the vacancy. If, for any meeting, the Chairman is absent, the members present for the meeting may elect one amongst themselves to preside over the day’s sitting.”

- (i) to approve associations and institutions for the purpose of carrying out any eligible project or scheme; and
- (ii) to recommend to the Central Government projects and schemes of any company including a public sector company, a local authority or an approved association or institution, for being notified as eligible projects or schemes for the purposes of section 35AC.

Guidelines for approval of associations and institutions.

11J. In according approval to any association or institution, the National Committee shall satisfy itself that,—

- (i) the association or institution is—
 - (a) constituted as a public charitable trust; or
 - (b) 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; or
 - (c) registered under section 25⁶⁶ of the Companies Act, 1956 (1 of 1956);
- (ii) persons managing the affairs of the association or institution are persons of proven integrity;
- (iii) the activities of the association or institution are open to citizens of India without any distinction of religion, race, caste, sex, place of birth or any of them and are not expressed to be for the benefit of any individual or community;
- (iv) the association or institution maintains regular accounts of its receipts and expenditure; and
- (v) the instrument under which the association or institution is constituted does not or the rules or regulations governing the association or institution do not contain any provision for the transfer or application, at any time, of the whole or any part of the income or assets of the association or institution for any purpose other than a charitable purpose.

Guidelines for recommending projects or schemes.

11K. In making recommendations to the Central Government with regard to any project or scheme for being notified in the Official Gazette as an eligible project or scheme, the National Committee shall satisfy itself that,—

- (i) the project or scheme relates to the provisions of one or more of the following :—
 - (a) construction and maintenance of drinking water projects in rural areas and in urban slums including installation of pump-sets, digging of wells, tube-wells and laying of pipes for supply of drinking water;
 - (b) construction of dwelling units for the economically weaker sections;
 - (c) construction of school buildings primarily for children belonging to the economically weaker sections of the society;

66. For text of section 25 of the Companies Act, 1956, see **Appendix**.

- (d) establishment and running of non-conventional and renewable source of energy systems;
- (e) construction and maintenance of bridges, public highways and other roads;
- (f) any other programme for uplift of the rural poor or the urban slum dwellers, as the National Committee may consider fit for support;
- ⁶⁷[(g) promotion of sports;]
- ⁶⁸[(h) pollution control;]
- ⁶⁹[(i) establishment and running of educational institutions in rural areas, exclusively for women and children upto 12 years of age;
- (j) establishment and running of hospitals and medical facilities in rural areas, exclusively for women and children upto 12 years of age;
- (k) establishment and running of creches and schools for the children of workers employed in factories or at building sites;
- (l) encouraging the production of bacteria induced fertilisers;
- (m) any programme that promotes road safety, prevention of accidents and traffic awareness;]
- ⁷⁰[(n) construction of hostel accommodation for women or handicapped individuals or individuals who are of the age of sixty-five years or more;]
- ⁷¹[(o) establishment and running of institutions for vocational education and training in rural areas or towns which consist of population of less than five lakhs;]
- ⁷²[(p) establishment and running of institutions imparting education in the field of engineering and medicine in rural areas or towns which consist of population of less than 5 lakhs;]
- ⁷³[(q) plantation of softwood on degraded non-forest land;
- (r) any programme of conservation of natural resources or of afforestation;]
- ⁷⁴[(s) relief and rehabilitation of handicapped individuals;]
- (ii) the benefit of the project or scheme shall flow to the public in general or to individuals belonging to the economically weaker sections of the society;
- (iii) the applicant has the necessary expertise, personnel and other facilities for efficient implementation of the project or scheme;

67. Inserted by the IT (Seventh Amtd.) Rules, 1993, w.e.f. 16-4-1993.

68. Inserted by the IT (Eighth Amtd.) Rules, 1994, w.e.f. 12-8-1994.

69. Inserted by the IT (Tenth Amtd.) Rules, 1998, w.e.f. 30-7-1998.

70. Inserted by the IT (Seventh Amtd.) Rules, 1999, w.e.f. 14-5-1999.

71. Inserted by the IT (Second Amtd.) Rules, 2000, w.e.f. 6-4-2000.

72. Inserted by the IT (Fourth Amtd.) Rules, 2001, w.e.f. 4-5-2001.

73. Inserted by the IT (Fifth Amtd.) Rules, 2002, w.e.f. 1-4-2002.

74. Inserted by the IT (Sixth Amtd.) Rules, 2002, w.e.f. 7-5-2002.

- (iv) the applicant shall maintain separate accounts in respect of the eligible project or scheme.

Application for approval of an association or institution or for recommendation of a project or scheme by the National Committee.

11L. (1) An application for approval of an association or institution or for recommendation of a project or scheme by the National Committee for the purposes of section 35AC may be made to the Secretary to the National Committee for Promotion of Social and Economic Welfare, Department of Revenue, Government of India, North Block, New Delhi - 110 001.

(2) The application should be submitted in 2 sets, written either in English or Hindi, and should be accompanied with details about the name, address and status of applicant, the district/ward/circle where assessed/registered, permanent account number, audited balance sheet and profit and loss account or income and expenditure account for the latest year for which these are available and two preceding years.

(3) The application for approval of an association or institution should contain the following particulars and be accompanied with relevant documents :—

- (i) Name and address of the association or institution;
- (ii) How constituted (whether as a trust, society, etc.) supported by relevant documents like trust deed, rules and regulations, memorandum of association, etc., and registration certificate, if any ;
- (iii) Names and addresses of the persons managing the affairs of the association or institution, including those who had, at any time, during the three years preceding the date of application, managed the affairs of the association or institution;
- (iv) If the association or the institution is notified by the Central Government for the purposes of sub-clause (iv) or (v) of clause (23C) of section 10 of the Income-tax Act, 1961 (43 of 1961), or is approved for the purposes of section 80G, the particulars of the approval granted;
- ⁷⁵[(v) Brief particulars of the activities of the association or institution during three years preceding the date of application :

Provided that when an association or institution has been in existence for a period of less than 3 years, in that case, that association or institution may furnish particulars of its activities for the period of its existence;]
- (vi) Such other information as the association or institution may like to place before the National Committee.

(4) The application for recommendation of a project or scheme should contain the following particulars and be accompanied with relevant documents,—

- (i) Title of project or scheme;
- (ii) Date of commencement;

75. Substituted by the IT (Fourth Amdt.) Rules, 1993, w.e.f. 5-3-1993. Prior to its substitution, clause (v), as inserted by the IT (First Amdt.) Rules, 1992, w.e.f. 2-1-1992, read as under :

“(v) Brief particulars of the activities of the association or institution during three years preceding the date of application;”

- (iii) Duration and the likely date of completion;
- (iv) Estimated cost of the project or scheme duly supported by a copy of the resolution of the Managing Committee of the association, institution or the local authority or, as the case may be, the Board of Directors of the company;
- (v) Categories or classes of persons who are likely to be benefited from the project or scheme;
- (vi) Affirmation that no benefit from the project or scheme, other than remuneration or honorarium for whole time or part-time work done or for reimbursement of actual expenses related to the project will accrue to the persons managing the affairs of the association or institution or to individuals not belonging to the economically weaker sections of the society;
- (vii) Where the project or scheme is to be executed by a company, information about whether the project or scheme is such which the company is required to execute under any law for the time being in force or under agreement with employees or otherwise;
- (viii) Such other particulars as the applicant may like to place before the National Committee.

Procedure before the National Committee.

11M. (1) All applications under rule 11L should be circulated by the Secretary to the National Committee to all the members of the Committee and will be considered by the National Committee at its sitting held at least seven days after the date on which the application is circulated. In exceptional cases, the Chairman may curtail the period of notice and may also direct consideration of the application by circulation only.

(2) The National Committee may call for such other information from the applicant as it deems necessary for taking a decision on the application and may also direct its Secretary to make or cause to be made enquiries on any matter relating to the application.

(3) The quorum for taking a decision on an application shall be at least five members, including Chairman. If a meeting is adjourned without taking a decision for lack of quorum, the ⁷⁶[decision to adjourn the meeting] may be taken by the members present, even without the requisite quorum. ⁷⁷[This decision would be conveyed to the absentee members along with notice about the date, time and place for re-holding the adjourned meeting.]

(4) Approval of an association or institution shall be for such period as the National Committee may decide, generally not exceeding a period of three years at a time. Subsequent approvals, if required, for a further period, can be granted only if the National Committee is satisfied about the activities of the association or institution during the preceding period of approval.

76. Substituted for "decision at the adjourned meeting" by the IT (Second Amdt.) Rules, 1995, w.e.f. 17-2-1995.

77. Inserted, *ibid*.

(5) The National Committee shall recommend ordinarily to the Central Government a project or scheme for being notified as an eligible project or scheme for an initial period up to three financial years. If the project or scheme is likely to extend beyond three financial years, the National Committee shall make further recommendations for a period of three years at a time after being satisfied that the project or, as the case may be, scheme is being executed properly. For this purpose, the National Committee may monitor the execution of project or scheme and call for such information as it deems necessary.

⁷⁸**Form of report by an approved association or institution under clause (ii) of sub-section (4) of section 35AC.**

11MA. (1) The report to be furnished by the approved association or institution under clause (i) of sub-section (4) of section 35AC shall be in Form No. 58C.

(2) The report referred to in sub-rule (1) shall be furnished to the National Committee before the expiry of three months from the end of the financial year.

(3) The National Committee, after receipt of the report referred to in sub-rule (2) may, at any time, undertake to inspect or verify the information furnished by the association or institution.

Form of report by public sector company or local authority or association or institution, which is carrying out a notified eligible project or scheme, under clause (ii) of sub-section (5) of section 35AC.

11MAA. (1) The report to be furnished by a public sector company or local authority or an association or institution in respect of the eligible project or scheme, under clause (i) of sub-section (5) of section 35AC shall be in Form No. 58D.

(2) The report referred to in sub-rule (1) shall be furnished to the National Committee before the expiry of three months from the end of the financial year.

(3) The National Committee, after receipt of the report referred to in sub-rule (2) may, at any time, undertake to inspect or verify the information furnished by the public sector company or local authority or association or institution.]

Other provisions.

11N. (1) The members of the National Committee shall not be entitled to any remuneration.

⁷⁹[(2) The members and Chairman of the National Committee shall be entitled to—

- (i) Sitting fee of Rs. ⁸⁰[3000] per day for attending a meeting of the National Committee or any Subordinate Committee set up by the Chairman of the National Committee. However, sitting fee would not be payable where applications are considered by circulation or when a member is on tour.

78. Inserted by the IT (Fifteenth Amdt.) Rules, 2005, w.e.f. 17-6-2005.

79. Substituted by the IT (Second Amdt.) Rules, 1995, w.e.f. 17-2-1995, for the following :

“(2) The members may be paid sitting fee up to Rs. 250 for each meeting of the National Committee attended by a member. In addition, they shall be entitled to reimbursement of actual cost of travel by air, rail or road as well as actual cost of boarding and local transport subject to the limits provided by the Central Government in respect of such expenditure by members of High Level Committee.”

80. Substituted for “250” by the IT (Twelfth Amdt.) Rules, 2009, w.e.f. 2-9-2009.

- (ii) Reimbursement of actual expenditure incurred by way of travel by rail, road or air, for attending any meeting of the National Committee or its Subordinate Committee. The entitlement of air travel would be restricted to the amount charged by Indian Airlines for its economy class for the members and to the amount charged for the executive class of the Indian Airlines for the Chairman. Members including Chairman may travel by any class on train. Members and Chairman would also be entitled to the reimbursement of ⁸¹[air-conditioned] taxi fare for reaching the venue of the meeting from their place of stay and for going back to the place of stay after the meeting.
- (iii) ⁸²[***]

81. Inserted by the IT (Twelfth Amdt.) Rules, 2009, w.e.f. 2-9-2009.

82. Omitted, *ibid.* Prior to its omission, clause (iii) read as under :

“(iii) Daily allowance for out-station members would be admissible in accordance with the following Table :

TABLE

(A)	(B)	(C)
<i>City or Locality</i>	<i>Stay in hotel and/or other establishment providing boarding and/or lodging at scheduled tariff</i>	<i>Does not stay in hotel or makes own arrangement</i>
	(Rs.)	(Rs.)
I. 'A' Class Cities/Specially Expensive Localities		
(i) <i>Cities</i>	265	106
(1) Ahmedabad U.A.		
(2) Bangalore U.A.		
(3) Calcutta U.A.		
(4) Delhi U.A.		
(5) Greater Bombay U.A.		
(6) Hyderabad U.A.		
(7) Kanpur U.A.		
(8) Madras U.A.		
(9) Pune U.A.		
(ii) <i>Localities</i>		
(1) Darjeeling District (except Siliguri Sub-division)		
(2) Darjeeling Town		
(3) NEFA areas beyond Inner Line		
(4) Naga Hills Tuensang area beyond the Inner Line		
(5) The following expensive/remote localities of Himachal Pradesh :—		
1. Lahaul and Spiti District;		
2. Kinnaur District;		

(Contd. on p. 1.124)

(Contd. from p. 1.123)

	(A)	(B)	(C)
	3. Bharamour sub-division and Pangi Sub-division of Chamba District;		
	4. Pargana of Pandrahbis; Cuter Seraj and Malana Panchayat area of Kulu District;		
	5. Chhuhar Valley of Jogindernagar Tehsil of Mandi District;		
	6. Mangal Panchayat area of Solan District;		
	7. Dodrakawar area of Rohru Tehsil; Parganas of Chhebis, Naubis, Barabis, Pandrahbis and Atharahbis; Sarahan and Gram Panchayats of Munish, Darkali and Kashapet of Rampur Tehsil of Simla District; and		
	8. Chhota Bhangal and Bara Bhangal areas of Palampur Sub-division of Kangra District;		
	(6) The following hill areas in Manipur which do not fall on the National Highway :—		
	1. Ukhrul		
	2. Churachandpur		
	3. Tamenlong		
	4. Jiribam		
	5. Mao Maram		
	6. Tengnampal		
II. 'B-1' Class Cities/Expensive Localities			
(i) Cities		225	85
(1) Coimbatore U.A.			
(2) Indore City U.A.			
(3) Jaipur U.A.			
(4) Lucknow U.A.			
(5) Madurai U.A.			
(6) Nagpur U.A.			
(7) Patna U.A.			
(8) Surat U.A.			
(ii) Expensive Localities			
(1) The following areas of Himachal Pradesh :—			
1. Simla;			
2. Janjehli Block of Chachiot Tehsil of Mandi District;			
3. Chopal Tehsil of Simla District;			
4. Trans-Giri Tract of Sirmaur District;			
5. Churah Tehsil, Salooni Tehsil, Kunr Panchayat and Belaj Pargana of Chamba Tehsil of Chamba District;			

(Contd. on p. 1.125)

- ⁸³[(iv)] The out-station Chairman or Member may stay and claim reimbursement of rent in any State guest house or for single room in medium range ITDC hotel like Lodi Hotel, Qutab Hotel, Janpath Hotel, Ashoka Yatri Niwas or State Government run tourist hotels/hostels or residential accommodation provided by registered societies like India International Centre or India Habitat Centre. They would separately be entitled for reimbursement of food allowance at the rate of Rs. 500 per day.]
- (v) Members and Chairman would have the same entitlement for travel, boarding and lodging in respect of tours undertaken in pursuance of a decision taken by the National Committee. However, sitting fee would not be admissible while on tour.
- (vi) Sitting fee would not be admissible in case the National Committee takes decisions by circulation of the application alone. Actual postal charges and other expenses incurred by Members and Chairman for circulating the application would be reimbursed.
- (vii) Reimbursement of any other expenditure with the approval of Secretary (Revenue) and the Financial Advisor, Department of Revenue, Ministry of Finance.]

(3) In granting approval to any project or scheme undertaken by a company, the National Committee shall satisfy itself that, where any expenditure is to be incurred in the acquisition or erection of a capital asset, the applicant-company has made adequate arrangements for divesting itself of the ownership of such asset without consideration in cash or otherwise immediately on completion of the eligible project, in the following manner :—

- (i) in the case of drinking water projects, to individuals belonging to the economically weaker sections or to the local authority or the village panchayat, as the case may be;
- (ii) in the case of dwelling units, to individuals belonging to the economically weaker sections, or to the local authority, village panchayat or an authority constituted under any law for the purpose of satisfying the need for housing accommodation or for the purpose of development or improvement of cities, towns and villages, as the National Committee may decide;
- (iii) in the case of school buildings, to an educational institution existing solely for educational purposes and not for profit or to the State Government, local authority or a village panchayat;

(Contd. from p. 1.124)

(A)	(B)	(C)
6. Manali-Ujhi area, Parvati and Lagg Valley and Banjar Block of Kulu District;		
(2) The whole of Jammu and Kashmir;		
(3) Andaman and Nicobar Islands;		
(4) The entire territory of the Laccadive, Minicoy and Amindivi Islands		
(iii) Other cases	205	78"

83. Substituted by the IT (Twelfth Amdt.) Rules, 2009, w.e.f. 2-9-2009.

- (iv) in the case of non-conventional or renewable energy systems, to the district administration, local authority, village panchayat or to individuals belonging to the economically weaker sections, or such other statutory body as the National Committee may decide;
- (v) in the case of bridges, public highways or other roads to the Central or the State Government, local authority or such other statutory body as the National Committee may decide;
- (vi) in the case of equipment purchased for the purpose of eligible project or scheme, to the State Government, local authority or such other statutory body as the National Committee may decide having regard to the capacity of the authority concerned to gainfully utilise such equipments;
Note : Where before the completion of any eligible project/scheme, the company undertakes other eligible project(s)/scheme(s) and transfers the equipments to such subsequent project/scheme, the company will be required to divest itself of the ownership of the equipment only after the completion of the last eligible project/scheme.
- (vii) in any other case, to such authority as the National Committee may decide.

(4) Immediately on completion of an eligible project/scheme, the company shall furnish details of the execution thereof to the National Committee. The National Committee shall satisfy itself that the project/scheme has been completed in accordance with the approval granted and that the company has divested itself of the assets in the manner prescribed by the National Committee. If the National Committee is not so satisfied, it may, after giving an opportunity of being heard on the proposed action, order withdrawal of the approval which shall then be deemed never to have been granted.]

⁸⁴[**Certificate of payment or expenditure in respect of eligible projects or schemes notified under section 35AC.**

11-O. (1) The certificate referred to in clause (a) of sub-section (2) of section 35AC shall be in Form No. 58A.

(2) The certificate referred to in clause (b) of sub-section (2) of section 35AC shall be in Form No. 58B.

(3) Every public sector company or a local authority or an association or institution, as the case may be, who issues a certificate referred to in sub-rule (1) or sub-rule (2) shall, in respect of the 31st March in each financial year, deliver or cause to be delivered to the Secretary, National Committee, an annual report indicating the progress of work relating to the project/scheme during the year as well as the following information (please specify the information in respect of each contributor separately) :—

- (i) Names of the contributors and their addresses.
- (ii) Permanent Account Number/G.I.R. Number of the contributors.
- (iii) Amount(s) of contribution.
- (iv) The project/scheme for which contribution was made.
- (v) Total amount of contribution received during the previous year.

84. Inserted by the IT (Second Amdt.) Rules, 1993, w.e.f. 24-2-1993.

(vi) Total cost of the project approved by the National Committee (with date of Committee's approval).

(4) Every public sector company or a local authority or an association or institution, as the case may be, who issues a certificate referred to in sub-rule (1) or sub-rule (2) shall send an annual statement of donation received and the details of the project to the National Committee and to each contributor by 30th June, following the financial year in which the amounts are received.]

⁸⁵[G.—Tonnage tax scheme for shipping companies

Application for exercising or renewing the option for tonnage tax scheme.

11P. An application under sub-section (1) of section 115VP for exercising an option for the tonnage tax scheme or under sub-section (1) of section 115VR for renewing the option for the tonnage tax scheme, as the case may be, shall be made in Form No. 65 and shall be verified in the manner provided therein.]

⁸⁶[**Computation of deemed tonnage.**

11Q. (1) For the purpose of the *Explanation* to sub-section (4) of section 115VG, deemed tonnage in respect of an arrangement of purchase of slots and slot charter shall be computed (illustrative formula given in Note 3 appearing after the corresponding Form No. 66) on the following basis :

2.5 TEU = 1 Net Tonnage (1 NT)

where TEU is Twenty foot Equivalent Unit (Container of this size)

(2) Computation of deemed tonnage (illustrative formula given in Note 4 appearing after the corresponding Form No. 66) in respect of an arrangement of sharing of break-bulk vessel shall be made on the following basis :

(i) in case where cargo is restricted by volume :

19 cubic meter (cbm) = 1 net tonnage (1 NT); and

(ii) in case where cargo is restricted by weight

14 metric tons = 1 net tonnage (1 NT)

Incidental activities for purposes of relevant shipping income.

11R. The incidental activities (details given in Note 5 appearing after the corresponding Form No. 66) referred to in sub-section (5) of section 115V-I shall be the following, namely :—

(i) maritime consultancy charges;

(ii) income from loading or unloading of cargo;

(iii) ship management fees or remuneration received for managed vessels; and

(iv) maritime education or recruitment fees.

Computation of average of net tonnage for charter-in of tonnage.

11S. The limit for charter-in of tonnage of the qualifying ships referred to in section 115VV (to be worked out according to the illustration explained in

85. Inserted by the IT (Eleventh Amdt.) Rules, 2004, w.e.f. 29-9-2004.

86. Inserted by the IT (Eighth Amdt.) Rules, 2005, w.e.f. 1-4-2005.

Note 6 appearing after the corresponding Form No. 66) during any previous year shall be computed by dividing the total number of chartered-in ton days by the total number of ton days operated by the company.

Form of report of an accountant under clause (ii) of section 115VW.

11T. The report of audit of accounts of a qualified company which is required to be furnished under clause (ii) of section 115VW shall be in Form No. 66.]

⁸⁷[H.—*Determination of fair market value of the property other than immovable property*

Meaning of expressions used in determination of fair market value.

11U. *For the purposes of this rule and rule 11UA,—*

- (a) “accountant” shall have the same meaning as assigned in the Explanation to section 288 of the Act;
- (b) “balance-sheet”, in relation to any company, means the balance-sheet of such company (including the notes annexed thereto and forming part of the accounts) as drawn up on the valuation date;
- (c) “merchant banker” means category I merchant banker registered with Securities and Exchange Board of India established under section 3 of the Securities and Exchange Board of India Act, 1992 (15 of 1992);
- (d) “quoted shares or securities” in relation to share or securities means a share or security quoted on any recognized stock exchange with regularity from time to time, where the quotations of such shares or securities are based on current transaction made in the ordinary course of business;
- (e) “recognized stock exchange” shall have the same meaning as assigned to it in clause (f) of section 2^{87a} of the Securities Contracts (Regulation) Act, 1956 (42 of 1956);
- (f) “registered dealer” means a dealer who is registered under Central Sales Tax Act, 1956 or General Sales Tax Law for the time being in force in any State including value added tax laws;
- (g) “registered valuer” shall have the same meaning as assigned to it in section 34AB of the Wealth-tax Act, 1957 (27 of 1957) read with rule 8A of Wealth-tax Rules, 1957;
- (h) “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)^{87a};
- (i) “unquoted shares and securities”, in relation to shares or securities, means shares and securities which is not a quoted shares or securities;
- (j) “valuation date” means the date on which the respective property is received by the assessee.

Determination of fair market value.

11UA. *For the purposes of section 56 of the Act, the fair market value of a property, other than immovable property, shall be determined in the following manner, namely,—*

87. Inserted by the IT (Second Amdt.) Rules, 2010, w.r.e.f. **1-10-2009**.

87a. For text of section 2(f) and 2(h) of Securities Contracts (Regulation) Act, 1956, see **Appendix**.

- (a) *valuation of jewellery,—*
- (i) *the fair market value of jewellery shall be estimated to be the price which such jewellery would fetch if sold in the open market on the valuation date;*
 - (ii) *in case the jewellery is received by the way of purchase on the valuation date, from a registered dealer, the invoice value of the jewellery shall be the fair market value;*
 - (iii) *in case the jewellery is received by any other mode and the value of the jewellery exceeds rupees fifty thousand, then assessee may obtain the report of registered valuer in respect of the price it would fetch if sold in the open market on the valuation date;*
- (b) *valuation of archaeological collections, drawings, paintings, sculptures or any work of art,—*
- (i) *the fair market value of archaeological collections, drawings, paintings, sculptures or any work of art (hereinafter referred as artistic work) shall be estimated to be price which it would fetch if sold in the open market on the valuation date;*
 - (ii) *in case the artistic work is received by the way of purchase on the valuation date, from a registered dealer, the invoice value of the artistic work shall be the fair market value;*
 - (iii) *in case the artistic work is received by any other mode and the value of the artistic work exceeds rupees fifty thousand, then assessee may obtain the report of registered valuer in respect of the price it would fetch if sold in the open market on the valuation date;*
- (c) *valuation of shares and securities,—*
- (a) *the fair market value of quoted shares and securities shall be determined in the following manner, namely,—*
 - (i) *if the quoted shares and securities are received by way of transaction carried out through any recognized stock exchange, the fair market value of such shares and securities shall be the transaction value as recorded in such stock exchange;*
 - (ii) *if such quoted shares and securities are received by way of transaction carried out other than through any recognized stock exchange, the fair market value of such shares and securities shall be,—*
 - (a) *the lowest price of such shares and securities quoted on any recognized stock exchange on the valuation date, and*
 - (b) *the lowest price of such shares and securities on any recognized stock exchange on a date immediately preceding the valuation date when such shares and securities were traded on such stock exchange, in cases where on the valuation date there is no trading in such shares and securities on any recognized stock exchange;*
 - (b) *the fair market value of unquoted equity shares shall be the value, on the valuation date, of such unquoted equity shares as determined in the following manner, namely:—*

$$\text{The fair market value of unquoted equity shares} = \frac{(A - L)}{(PE)} \times (PV)$$

Where,

A = Book value of the assets in Balance Sheet as reduced by any amount paid as advance tax under the Income-tax Act and any amount shown in the balance sheet including the debit balance of the profit and loss account or the profit and loss appropriation account which does not represent the value of any asset.

L = Book value of liabilities shown in the Balance Sheet but not including the following amounts:—

- (i) the paid-up capital in respect of equity shares;*
- (ii) the amount set apart for payment of dividends on preference shares and equity shares where such dividends have not been declared before the date of transfer at a general body meeting of the company;*
- (iii) reserves, by whatever name called, other than those set apart towards depreciation;*
- (iv) credit balance of the profit and loss account;*
- (v) any amount representing provision for taxation, other than amount paid as advance tax under the Income-tax Act, to the extent of the excess over the tax payable with reference to the book profits in accordance with the law applicable thereto;*
- (vi) any amount representing provisions made for meeting liabilities, other than ascertained liabilities;*
- (vii) any amount representing contingent liabilities other than arrears of dividends payable in respect of cumulative preference shares.*

PE = Total amount of paid up equity share capital as shown in Balance Sheet.

PV = The paid up value of such equity shares;

- (c) the fair market value of unquoted shares and securities other than equity shares in a company which are not listed in any recognized stock exchange shall be estimated to be price it would fetch if sold in the open market on the valuation date and the assessee may obtain a report from a merchant banker or an accountant in respect of such valuation.]*

PART III

ASSESSMENT PROCEDURE⁸⁸

⁸⁹[**Return of income and return of fringe benefits.**

- 12.** (1) The return of income required to be furnished under sub-section (1) or sub-section (3) or sub-section (4A) or sub-section (4B) or sub-section (4C) or sub-

88. See also Circular Nos. 3/2007, dated 25-5-2007; 5/2007, dated 26-7-2007; Circular No. 6/2008, dated 18-7-2008; Circular No. 8/2008, dated 22-9-2008; Circular No. 3/2009, dated 21-5-2009 and Instruction No. 14/2008, dated 1-10-2008.

For details, see Taxmann's Master Guide to Income-tax Rules.

89. Substituted by the IT (Fourth Amtd.) Rules, 2007, w.e.f. 14-5-2007. Prior to its substitution, rule 12 was amended by the IT (Seventh Amtd.) Rules, 2006, w.e.f. 24-7-2006, IT (Eleventh

(Contd. on p. 1.131)

section (4D) of section 139 or clause (i) of sub-section (1) of section 142 or sub-section (1) of section 148 or section 153A ^{89a}[^{***}] relating to the assessment year commencing ⁹⁰[on the 1st day of April, ⁹¹[2011]] shall,—

⁹²[(a) *in the case of a person being an individual where the total income includes income chargeable to income-tax, under the head,—*

(i) *“Salaries” or income in the nature of family pension as defined in the Explanation to clause (iia) of section 57; or*

(ii) *“Income from house property”, where assessee does not own more than one house property and does not have any brought forward loss under the head; or*

(iii) *“Income from other sources”, except winnings from lottery or income from race horses, be in Form ^{92a}[SAHAJ] (ITR-1) and be verified in the manner indicated therein;]*

(b) *in the case of a person being an individual [not being an individual to whom clause (a) applies] or a Hindu undivided family where the total income does not include any income chargeable to income-tax under the head “Profits or gains of business or profession”, be in Form No. ITR-2 and be verified in the manner indicated therein;*

(c) *in the case of a person being an individual or a Hindu undivided family who is a partner in a firm and where income chargeable to income-tax under the head “Profits or gains of business or profession” does not include any income except the income by way of any interest, salary,*

(Contd. from p. 1.130)

Amdt.) Rules, 2006, w.e.f. 19-10-2006, IT (Fifth Amdt.) Rules, 2006, w.e.f. 1-6-2006, IT (Fifth Amdt.) Rules, 2004, w.e.f. 1-4-2004, IT (Sixth Amdt.) Rules, 2003, w.e.f. 14-5-2003, IT (First Amdt.) Rules, 2003, w.e.f. 28-1-2003 [as corrected by Notification No. SO 258(E), dated 5-3-2003], IT (Thirteenth Amdt.) Rules, 2002, w.e.f. 24-6-2002, IT (Tenth Amdt.) Rules, 2001, w.e.f. 2-7-2001, IT (Thirteenth Amdt.) Rules, 1998, w.e.f. 9-9-1998, IT (Fourth Amdt.) Rules, 1998, w.e.f. 1-4-1998, IT (Eighth Amdt.) Rules, 1997, w.e.f. 27-6-1997 [as corrected by Notification No. SO 870(E), dated 15-12-1997], IT (Sixteenth Amdt.) Rules, 1995, w.e.f. 23-8-1995, IT (Fourth Amdt.) Rules, 1995, w.e.f. 1-6-1995, IT (Third Amdt.) Rules, 1994, w.e.f. 1-6-1994, IT (Eighth Amdt.) Rules, 1991, w.e.f. 1-4-1989, IT (Amdt.) Rules, 1981, w.e.f. 1-4-1981, IT (Second Amdt.) Rules, 1979, w.e.f. 1-4-1979, IT (Fifth Amdt.) Rules, 1976, w.e.f. 21-6-1976, IT (Amdt.) Rules, 1976, w.e.f. 1-4-1976, IT (Second Amdt.) Rules, 1972, IT (Amdt.) Rules, 1971, IT (Amdt.) Rules, 1968, IT (Second Amdt.) Rules, 1967, IT (Third Amdt.) Rules, 1964 and IT (Amdt.) Rules, 1962.

89a. Words “or the return of fringe benefits required to be furnished under sub-section (1) or sub-section (2) of section 115WD” omitted by the IT (Third Amdt.) Rules, 2011, w.r.e.f. **1-4-2011**.

90. Substituted for “on the 1st day of April, 2007 or any subsequent assessment year” by the IT (Sixth Amdt.) Rules, 2008, w.e.f. 1-4-2008.

91. Substituted for “2010” by the IT (Third Amdt.) Rules, 2011, w.r.e.f. **1-4-2011**. Earlier “2010” was substituted for “2009” by the IT (Third Amdt.)/(Fourth Amdt.) Rules, 2010, w.r.e.f. **1-4-2010** and “2009” was substituted for “2008” by the IT (Ninth Amdt.) Rules, 2009, w.e.f. 1-4-2009.

92. Substituted by the IT (Fourth Amdt.) Rules, 2010, w.r.e.f. **1-4-2010**. Prior to substitution, clause (a) read as under :—

(a) *in the case of a person being an individual where the total income includes income chargeable to income-tax under the head “Salaries” or income in the nature of family pension as defined in the Explanation to clause (iia) of section 57 but does not include any other income except income by way of interest chargeable to income-tax under the head “Income from other sources”, be in Form No. ITR-1 and be verified in the manner indicated therein;*

92a. Substituted for “SARAL-II” by the IT (Third Amdt.) Rules, 2011, w.r.e.f. **1-4-2011**.

bonus, commission or remuneration, by whatever name called, due to, or received by him from such firm, be in Form No. ITR-3 and be verified in the manner indicated therein;

^{92b}[(ca) *in the case of a person being an individual or a Hindu undivided family deriving business income and such income is computed in accordance with special provisions referred to in section 44AD and section 44AE of the Act for computation of business income, be in Form SUGAM (ITR-4S) and be verified in the manner indicated therein;*]

(d) in the case of a person being an individual or a Hindu undivided family other than the individual or Hindu undivided family referred to in clause (a) or clause (b) or clause (c) ^{92b}[or clause (ca)] and deriving income from a proprietary business or profession, be in Form No. ITR-4 and be verified in the manner indicated therein;

(e) in the case of a person not being an individual or a Hindu undivided family or a company or a person to which clause (g) applies, be in Form No. ITR-5 and be verified in the manner indicated therein;

(f) in the case of a company not being a company to which clause (g) applies, be in Form No. ITR-6 and be verified in the manner indicated therein;

(g) in the case of a person including a company whether or not registered under section 25 of the Companies Act, 1956 (1 of 1956), required to file a return under sub-section (4A) or sub-section (4B) or sub-section (4C) or sub-section (4D) of section 139, be in Form No. ITR-7 and be verified in the manner indicated therein;

(h) ^{92c}[****]

⁹³[(2) *The return of income required to be furnished in Form SAHAJ (ITR-1) or Form No. ITR-2 or Form No. ITR-3 or Form SUGAM (ITR-4S) or Form No. ITR-4 or Form No. ITR-5 or Form No. ITR-6 shall not be accompanied by a statement showing the computation of the tax payable on the basis of the return, or proof of the tax, if any, claimed to have been deducted or collected at source or the advance tax or tax on self-assessment, if any, claimed to have been paid or any document or copy of any account or form or report of audit required to be attached with the return of income under any of the provisions of the Act.*]

(3) The return of income ^{93a}[****] referred to in sub-rule (1) may be furnished in any of the following manners, namely:—

92b. Inserted by the IT (Third Amdt.) Rules, 2011, w.r.e.f. **1-4-2011**.

92c. Omitted, *ibid*. Prior to its omission, clause (h) read as under :

“(h) in the case of a person who is not required to furnish the return of income but is required to furnish the return of fringe benefits, be in Form No. ITR-8 and be verified in the manner indicated therein.”

93. Substituted by the IT (Third Amdt.) Rules, 2011, w.r.e.f. **1-4-2011**. Prior to its substitution, sub-rule (2), as amended by the IT (Fourth Amdt.) Rules, 2010, w.r.e.f. **1-4-2010**, read as under :
“(2) The return of income and return of fringe benefits required to be furnished in Form SARAL-II (ITR-1) or Form No. ITR-2 or Form No. ITR-3 or Form No. ITR-4 or Form No. ITR-5 or Form No. ITR-6 or Form No. ITR-8 shall not be accompanied by a statement showing the computation of the tax payable on the basis of the return, or proof of the tax, if any, claimed to have been deducted or collected at source or the advance tax or tax on self-assessment, if any, claimed to have been paid or any document or copy of any account or form or report of audit required to be attached with the return of income or the return of fringe benefits under any of the provisions of the Act.”

93a. Words “or return of fringe benefits” omitted by the IT (Third Amdt.) Rules, 2011, w.r.e.f. **1-4-2011**.

- (i) furnishing the return in a paper form;
- (ii) furnishing the return electronically under digital signature;
- (iii) transmitting the data in the return electronically and thereafter submitting the verification of the return in Form ITR-V;
- (iv) furnishing a bar-coded return in a paper form:

Provided that—

- ⁹⁴[(a) a firm required to furnish the return in Form ITR-5 and to whom provisions of section 44AB are applicable shall furnish the return in the manner specified in clause (ii) or clause (iii);
- (aa) an individual or HUF required to furnish the return in Form ITR-4 and to whom provisions of section 44AB are applicable shall furnish the return for assessment year 2010-11 and subsequent assessment years in the manner specified in clause (ii) or clause (iii);
- (ab) a company required to furnish the return in Form ITR-6 shall furnish the return for assessment year 2010-11 and subsequent assessment years in the manner specified in clause (ii);]
- (b) a person required to furnish the return in Form ITR-7 shall furnish the return in the manner specified in clause (i).

(4) The Director-General of Income-tax (Systems) shall specify the procedures, formats and standards for ensuring secure capture and transmission of data and shall also be responsible for evolving and implementing appropriate security, archival and retrieval policies in relation to furnishing the returns in the manners specified in clauses (i), (iii) and (iv) of sub-rule (3).

(5) Where a return of income ^{94a}["**"] relates to the assessment year commencing on the 1st day of April, ⁹⁵[2010] or any earlier assessment year, it shall be furnished in the appropriate form as applicable in that assessment year.]

⁹⁶**Preparation of return by authorised representative.**

12A. Every authorised representative of an assessee, being an authorised representative specified in clause (iii) or clause (iv) or clause (v) or clause (vi) or clause

94. Substituted by the IT (Seventh Amdt.) Rules, 2010, w.e.f. **9-7-2010**. Prior to its substitution, clause (a) read as under :

“(a) a firm required to furnish the return in Form ITR-5 and to whom provisions of section 44AB are applicable or a company required to furnish the return in Form ITR-6 shall furnish the return in the manner specified in clause (ii) or clause (iii);”

94a. Words “or return of fringe benefits,” omitted by the IT (Third Amdt.) Rules, 2011, w.r.e.f. **1-4-2011**.

95. Substituted for “2009” by the IT (Third Amdt.) Rules, 2011, w.r.e.f. **1-4-2011**. Earlier “2009” was substituted for “2008” by the IT (Third Amdt.)/(Fourth Amdt.) Rules, 2010, w.r.e.f. **1-4-2010**, “2008” was substituted for “2007” by the IT (Ninth Amdt.) Rules, 2009, w.e.f. 1-4-2009 and “2007” was substituted for “2006” by the IT (Sixth Amdt.) Rules, 2008, w.e.f. 1-4-2008.

96. Inserted by the IT (Amdt.) Rules, 1962.

Where the assessee had, under a letter of authority, authorised a chartered accountant to represent it before the Assessing Officer in the assessment proceedings and had stated in that letter that all statements and explanations made by the chartered accountant would be binding on the assessee, the expression ‘statements and explanations’ must be construed wide enough to take in all statements and explanations relating to the matters germane to the assessment proceedings, including the claim for deductions put forward by assessee - *Jayasree Chit Funds & Services (P.) Ltd. v. CIT* [1981] 127 ITR 740 (Ker.). For details, see Taxmann’s Master Guide to Income-tax Rules.

(vii) of sub-section (2) of section 288, who has prepared the return of income furnished by the assessee shall, either before making an appearance before the ⁹⁷[Assessing Officer] having jurisdiction to assess that assessee, or immediately after making such appearance, furnish to that officer—

- (a) particulars of accounts, statements or other documents supplied to him by the assessee for the preparation of the return of income; and
- (b) where the authorised representative has for the purpose of preparation of the return of income carried out any examination of such accounts, statements or documents, a report on the scope and results of such examination.]

⁹⁸**[Statement under sub-section (3A) of section 115R.]**

12B. (1) The statement of income distributed shall be furnished as provided in sub-rules (2) and (3) to,—

- (i) the Assessing Officer so designated by the Chief Commissioner or Commissioner of Income-tax, within whose area of jurisdiction, the principal office of the Unit Trust of India or the concerned Mutual Fund is situated;
- (ii) in any other case, to the Assessing Officer within whose area of jurisdiction, the principal office of the Unit Trust of India or the concerned Mutual Fund is situated.

(2) The statement of distributed income which is to be furnished under sub-section (3A) of section 115R by the Unit Trust of India shall be in Form No. 63, duly verified by an accountant in the manner indicated therein.

(3) The statement of distributed income which is to be furnished under sub-section (3A) of section 115R by a Mutual Fund shall be in Form No. 63A, duly verified by an accountant in the manner indicated therein.]

⁹⁹**[Statement under sub-section (2) of section 115U.]**

12C. (1) The statement of distributed income shall be furnished by the 30th November of the financial year following the previous year during which such income is distributed, to the Chief Commissioner or Commissioner of Income-tax, within whose jurisdiction, the principal office of the Venture Capital Company or the Venture Capital Fund, as the case may be, is situated.

(2) The statement of distributed income which is to be furnished under sub-section (2) of section 115U by the Venture Capital Company or the Venture Capital Fund shall be in Form No. 64, duly verified by an accountant in the manner indicated therein.]

Application for extension of time for filing return of income.

13. ¹[Omitted by the IT (Fifth Amdt.) Rules, 1989, w.e.f. 18-5-1989.]

97. Substituted for "Income-tax Officer" by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988.

98. Inserted by the IT (Fourteenth Amdt.) Rules, 2000, w.e.f. 29-8-2000.

99. Inserted by the IT (Fifteenth Amdt.) Rules, 2000, w.e.f. 29-8-2000.

1. Prior to its omission, rule 13, as amended by the IT (Fourth Amdt.) Rules, 1971, w.e.f. 1-4-1971.

Form of verification under section 142.

14. The information which a person is required by the ²[Assessing Officer] to furnish under clause (i) of sub-section (1) of section 142 shall be verified in the following manner, namely :—

“I declare that to the best of my knowledge and belief, the information furnished in the statement/statements is correct and complete and other particulars shown therein are truly stated.”

³⁴Form of audit report under section 142(2A).

14A. The report of audit of the accounts of an assessee which is required to be furnished under sub-section (2A) of section 142 shall be in Form No. 6B.]

2. Substituted for “Income-tax Officer” by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988.

3. Inserted by the IT (Second Amdt.) Rules, 1977.

The Assessing Officer should form an opinion that the nature of the accounts maintained by the assessee is complex, in an objective manner on the basis of material before him, and such opinion should be based on relevant considerations. The interest of the Revenue must be adversely affected if special audit is not directed. The Chief Commissioner or Commissioner should apply his mind to all materials placed before him, before granting approval. Guidelines contained in CBDT Instruction dated 12-7-1977 are binding on the authorities, and special auditor can be appointed only if the case falls under any of the clauses mentioned therein - *U.P. Financial Corporation v. Jt. CIT*[2005] 147 Taxman 21 (All.). It is not for the court to again examine whether the accounts are complex or not, since the writ court does not act as an appellate court over such decisions of the Assessing Officer - *CIT v. Vijay Kumar Rajendra Kumar & Co.* [2004] 271 ITR 337 (MP). The satisfaction of the authorities must be objective and not subjective. What is complex to one person may be simple to another person. It depends upon one’s level of understanding or comprehension. Sometimes what appears to be complex on the face of it may not be really so if one tries to understand it carefully. Therefore, special audit should not be directed after a cursory look at the accounts. There should be an honest attempt to understand the accounts of the assessee - *Swadeshi Cotton Mills Co. Ltd. v. CIT* [1988] 171 ITR 634 (All.). Power under section 142(2A) can be exercised even if accounts have been already audited under any other law - *Jagatjit Sugar Mills Co. Ltd. v. CIT* [1994] 210 ITR 468 (Punj. & Har.). Special audit can be ordered even if the accounts of the assessee have not been subjected to special audit in the past - *Guru Nanak Enterprises v. CIT* [2003] 259 ITR 637 (Delhi). The expression ‘accounts of the assessee’ covers not only the books of account of the assessee but also other documents which are available in the course of an assessment and at any stage subsequent thereto, that may become available to the Assessing Officer - *Rajesh Kumar, Prop. Surya Trading v. Dy. CIT* [2005] 275 ITR 641 (Delhi). Direction for special audit can be issued even in cases where assessee has filed only provisional balance sheet and provisional profit and loss account - *U.P. State Handloom Corporation Ltd. v. CIT* [1988] 171 ITR 640 (All.). When account books called for by the Assessing Officer are not produced by the assessee, special audit can be ordered. If the assessee deliberately, knowing the consequences, refuses to produce the account books, the assessee cannot be permitted to raise a hue and cry that the account books have not been perused by the Assessing Officer before ordering special audit - *Sahara India Mutual Benefit Co. Ltd. v. CIT* 2001 Tax L.R. 287 (All.). The expression ‘complexity’ would mean the state or quality of being intricate or complex or that it is difficult to understand. Difficulty in understanding would, however, not lead to the conclusion that the accounts are complex in nature. No order can be passed on whims or caprice - *Rajesh Kumar v. Dy. CIT* [2006] 157 Taxman 168 (SC). Order for special audit passed without giving opportunity of hearing to

(Contd. on p. 1.136)

⁵[Guidelines for the purposes of determining expenses for audit^{5a}.

14B. (1) Every Chief Commissioner shall maintain a panel of accountants, out of the persons referred to in the *Explanation* to sub-section (2) of section 288, for the purposes of sub-section (2A) of section 142.

(2) Where the Assessing Officer directs for audit under sub-section (2A) of section 142 on or after the 1st day of June, 2007, the expenses of, and incidental to, audit (including the remuneration of the Accountant, qualified Assistants, semi-qualified and other Assistants who may be engaged by such Accountant) shall not be less than rupees three thousand seven hundred and fifty and not more than rupees seven thousand and five hundred for every hour of the period as specified by the Assessing Officer under sub-section (2C) of section 142.

(3) The period referred to in sub-rule (2) shall be specified in terms of the number of hours required for completing the report.

(4) The Accountant referred to in sub-section (2A) of section 142 shall maintain a time-sheet and shall submit it to the Chief Commissioner or Commissioner, along with the bill.

(Contd. from p. 1.135)

assessee and rejecting assessee's request for supply of reasons therefor, would be vitiated in law. Principles of natural justice are required to be applied, *inter alia*, to minimise arbitrariness. If the assessee is put to notice, he could show that the nature of accounts is not such which would require appointment of special auditors. He could further show that what the Assessing Officer considers to be complex is in fact not so. It was also open to him to show that the same would not be in the interest of Revenue. The hearing given, however, need not be elaborate - *Rajesh Kumar v. Dy. CIT* [2006] 157 Taxman 168 (SC). Same view taken later in *Sahara India (Firm) v. CIT* [2008] 169 Taxman 328 (SC). Principles of natural justice pronounced by the Supreme Court in *Sahara India* case (*supra*) will apply prospectively from date of judgment, i.e., 11-4-2008 - *Rajesh Kumar v. Dy. CIT* [2008] 24 SOT 505 (Delhi - Trib.). Recording of reasons by Assessing Officer is not an essential requirements of section 142(2A) - *Ramesh Chand Industries Ltd. v. Union of India* [1998] 100 Taxman 570 (Delhi). Reasons need not be elaborate - *Purvanchal Vidhut Vitran Nigam Ltd. v. Union of India* [2010] 188 Taxman 355 (All.). Where it was found that assessing authority had applied his mind and formation of opinion to have special audit was *prima facie* justified, order of Commissioner granting approval could not be stayed - *Narendra Singh Atwal v. Dy. CIT* [1998] 231 ITR 641 (Cal.). [See also *Uttaranchal Welfare Society v. CIT* [2004] 141 Taxman 560 (All.)]. There is no conflict between the provisions of section 142(2A) and section 44AB. Object and purpose behind the getting of audit report is one and the same - *Pani Devi v. Union of India* [2000] 245 ITR 798 (Pat.). Assessing Officer can resort to section 142(2A) in case of block assessment under chapter XIV-B - *Triumph Securities Ltd. v. Dy. CIT* [2010] 39 SOT 139 (Mum. - Trib.) (SB). Audit has to be carried out at the premises of the assessee and not at the income-tax premises - *Asstt. CIT v. Badri Ram Choudhary* [2008] 118 TTJ (Jodh. - Trib.) 492. For details, see Taxmann's Master Guide to Income-tax Rules.

4. See section 295(2)(*eec*).

5. Inserted by the IT (Third Amdt.) Rules, 2008, w.e.f. 5-2-2008. Earlier rule 14B was omitted by the IT (Fifth Amdt.) Rules, 1989, w.e.f. 18-5-1989, and amended by the IT (Amdt.) Rules, 1972 and IT (Second Amdt.) Rules, 1977.

(Contd. on p. 1.137)

(5) The Chief Commissioner or the Commissioner shall ensure that the number of hours claimed for billing purposes is commensurate with the size and quality of the report submitted by the Accountant.]

Notice of demand for regular assessment, etc.

¶15. (1) Subject to the provisions of 7[rules 8[* * *] 38 and 48A], the notice of demand under section 156 shall be in Form No. 7.

(2) [Omitted by the IT (Third Amdt.) Rules, 1964.]

(Contd. from p. 1.136)

- 5a. Logically, the remuneration payable to the special auditor under section 142(2D) or at least the parameters on which such remuneration is to be determined need to be fixed before the audit is assigned to him. The auditor, to whom the work is assigned, is not under any obligation to accept the assignment and is very much at liberty, while making offer for appointing him as special auditor or while accepting the assignment, to insist upon payment of such fee as he may deem adequate for the work assigned to him. Therefore, necessarily he needs to know, what will be paid to him for the work proposed to be assigned to him. It would be difficult to accept that the special audit can be assigned to a person without fixing either the remuneration or the norms on which the remuneration is to be calculated after the work is completed and conveying the same to him. Taking such a view would amount to giving an arbitrary power to the Chief Commissioner or the Commissioner, as the case may be, to fix any fee which he may decide to fix irrespective of the quantum of the work and the scale on which the remuneration is to be determined taking the quantum of work into consideration. This is not the scheme of section 142(2D). The scheme of the Act does not envisage any consent being obtained from the assessee in respect of the remuneration payable to the special auditor nor does it envisage any consultation with him before determining the said remuneration. The decision of the Chief Commissioner/Commissioner with respect to the remuneration payable to the special auditor is final and binding upon the assessee. The Commissioner while determining the remuneration under section 142(2D) cannot abdicate his duty to determine the remuneration payable to the special auditors, simply by accepting an amount mutually agreed between the auditor and the assessee. - *Dhanesh Gupta & Co. v. CIT* [2010] 327 ITR 246 (Delhi).
6. Without a valid demand notice, assessee cannot be treated as defaulter for purposes of enforcing recovery proceedings - *Misri Bai v. ITO* [1964] 51 ITR 487 (AP)/*ITO v. Segu Bechiah Setty* [1964] 52 ITR 538 (SC)/*Dwarka Nath v. ITO* [1965] 57 ITR 349 (SC)/*Homely Industries v. STO* [1976] 37 STC 483 (SC)/*Murlidhar Jalan v. ITO* [1961] 41 ITR 80 (Assam). A wrong notice can be rectified by issue of correct notice - *CIT v. Karnani Industrial Bank Ltd.* [1978] 113 ITR 380 (Cal). Order should precede notice - *Rasiklal Amritlal Doshi v. A. Nundy, Addl. ITO* [1961] 42 ITR 35 (Bom.).
7. Substituted for "rules 16 and 38" by the IT (Fourth Amdt.) Rules, 1964.
8. "16," omitted by the IT (Fourth Amdt.) Rules, 1971, w.e.f. 1-4-1971.

⁹[PART IIIA**AVOIDANCE OF REPETITIVE APPEALS****Declaration under section 158A.**

- 16.** (1) The declaration referred to in sub-section (1) of section 158A shall be in Form No. 8 and shall be verified in the manner indicated therein.
- (2) The declaration and the verification referred to in sub-rule (1) shall be signed by the person specified in sub-rule (2) of rule 45.
- (3) The declaration referred to in sub-rule (1) shall,—
- (a) in a case where it is furnished to the ¹⁰[Deputy Commissioner (Appeals)] or the Commissioner (Appeals), be in duplicate, and
 - (b) in a case where it is furnished to the Appellate Tribunal, be in triplicate.]

PART IV**TAX EXEMPTIONS ¹¹[AND RELIEFS]****¹²¹³Prescribed authority for approving any institution or body established for scientific research.**

16A. For the purposes of sub-clause (*viia*) of clause (6) of section 10¹⁴, the “prescribed authority” shall be the Secretary, Department of ¹⁵[Scientific and Industrial Research], Government of India :

Provided that every case pending on or before the 1st day of June, 1982, with any authority, other than the said Secretary, shall stand transferred to the said Secretary for disposal.]

¹⁶[Prescribed authority for the purposes of clauses (8A) and (8B) of section 10.

16B. For the purposes of clauses (8A) and (8B) of section 10, the “prescribed authority” shall be the Additional Secretary, Department of Economic Affairs in the Ministry of Finance, Government of India in concurrence with Member (Income-tax) of the Board.]

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9. Inserted by the IT (Third Amdt.) Rules, 1984, w.e.f. 1-10-1984. Original rule 16 was omitted by the IT (Fourth Amdt.) Rules, 1971, w.e.f. 1-4-1971.
10. Substituted for “Appellate Assistant Commissioner” by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988.
11. Inserted by the IT (Amdt.) Rules, 1972.
12. Substituted by the IT (Fourth Amdt.) Rules, 1982, w.e.f. 1-6-1982. Original rule 16A was inserted by the IT (Fourth Amdt.) Rules, 1971, w.e.f. 1-4-1971 and later substituted by the IT (Fifth Amdt.) Rules, 1974, w.e.f. 2-11-1974 and amended by the IT (Seventh Amdt.) Rules, 1977, w.e.f. 1-11-1977.
13. See section 295(2)(g).
14. Section 10(6)(*viia*) was omitted by the Finance (No. 2) Act, 1998, w.e.f. 1-4-1999.
15. Substituted for “Science and Technology” by the IT (Seventh Amdt.) Rules, 1985, w.e.f. 6-1-1985.
16. Inserted by the IT (Eighteenth Amdt.) Rules, 1993, w.e.f. 30-9-1993.

¹⁷[Requirements for approval of a fund under section 10(23AAA).

16C. (1) The fund shall be formed under a trust and it shall be evidenced by a trust deed.

(2) The contributions to the fund are to be made by the employees by way of periodical subscription.

(3) The application for approval of any fund under clause (23AAA) of section 10 shall be made in Form No. 9 to the Commissioner having jurisdiction over the area or territory in which the accounts are kept and such application shall be accompanied by the documents mentioned therein.

(4) Where the Commissioner is satisfied that all the conditions laid down in clause (23AAA) of section 10 are fulfilled in the case of the fund, he shall record such satisfaction in writing and grant approval to the fund specifying the assessment year or years for which the approval is valid so however that such approval shall, at one time, have effect for such assessment year or years not exceeding three assessment years.

(5) Where the Commissioner is satisfied that one or more of the conditions laid down in clause (23AAA) of section 10 are not fulfilled, he shall reject the application for approval, after recording the reasons for such rejection in writing :

Provided that no order of rejection of an application shall be passed without giving an opportunity of being heard.]

*Form of report of audit prescribed under tenth proviso to section 10(23C).

¹⁸**16CC.** The report of audit of the accounts of a fund or trust or institution or any university or other educational institution or any hospital or other medical institution which is required to be furnished under the tenth proviso to clause (23C) of section 10 shall be in Form No. 10BB.]

¹⁹[Form of report for claiming deduction under section 10A.

16D. The report of an accountant which is required to be furnished by the assessee along with the return of income, under sub-section (5) of section 10A shall be in Form No. 56F.]

²⁰[Form of particulars to be furnished along with return of income for claiming deduction under clause (b) of sub-section (1B) of section 10A.

16DD. The particulars, which are required to be furnished by the assessee along with the return of income under clause (b) of sub-section (1B) of section 10A shall be in Form No. 56FF.]

²¹[Form of report for claiming deduction under section 10B.

16E. The report of an accountant which is required to be furnished by the assessee along with the return of income, under sub-section (5) of section 10B shall be in Form No. 56G.]

17. Inserted by the IT (Fifteenth Amdt.) Rules, 1995, w.e.f. 27-7-1995.

18. Inserted by the IT (Eighth Amdt.) Rules, 2006, w.e.f. 25-7-2006.

19. Inserted by the IT (Seventeenth Amdt.) Rules, 2000, w.e.f. 27-9-2000. Provisions of section 10A(5) are directory and not mandatory - *CIT v. Axis Computers (India) (P.) Ltd.* [2009] 178 Taxman 143 (Delhi). For details, see Taxmann's Master Guide to Income-tax Rules.

20. Inserted by the IT (Fifteenth Amdt.) Rules, 2003, w.e.f. 26-8-2003.

21. Inserted by the IT (Eighteenth Amdt.) Rules, 2000, w.e.f. 27-9-2000. Provisions of section 10B(5) are directory and not mandatory - *CIT v. Integrated Databases India Ltd.* [2009] 178 Taxman 432 (Delhi)/ *CIT v. Web Commerce (India) (P.) Ltd.* [2009] 178 Taxman 310 (Delhi). Filing of Form No. 56G under section 10B(5) cannot be equated with declaration to be filed under sub-section (8) of section 10B - *Sovika Infotek Ltd. v. ITO* [2008] 23 SOT 271 (Mum. - Trib.). For details, see Taxmann's Master Guide to Income-tax Rules.

*Heading is provided by Editors.

²²[Form of report for claiming deduction under section 10BA.

16F. The report of an accountant which is required to be furnished by the assessee along with the return of income, under sub-section (5) of section 10BA shall be in Form No. 56H.]

²³[Notice for accumulation of income by charitable or religious trust or institution or association referred to in clauses (21) and (23) of section 10.

17. The notice to be given to the Assessing Officer or the prescribed authority under sub-section (2) of section 11 or under the said provision as applicable under clause (21) or clause (23) of section 10 shall be in Form No. 10 and shall be delivered before the expiry of the time allowed under sub-section (1) of section 139, for furnishing the return of income.²⁴]

22. Inserted by the IT (Seventh Amdt.) Rules, 2004, w.e.f. 31-3-2004.

23. Substituted by the IT (Eighth Amdt.) Rules, 1989, w.e.f. 1-4-1990. Earlier rule 17 was amended by the IT (Amdt.) Rules, 1971, w.e.f. 1-4-1971 and IT (Fifth Amdt.) Rules, 1989, w.e.f. 18-5-1989.

24. Delay in filing the notice is condonable by Commissioners - *Circular No. 273, dated 3-6-1980*. CBDT circular has authorized Commissioners to admit applications under section 11(2), read with rule 17, from persons deriving income from property held under the trust wholly for charitable or religious purposes for accumulation of such income to be applied for such purposes stipulated subject to the condition *inter alia* that the failure to give notice to the Income-tax Officer under section 11(2) and investment of the money in the prescribed securities was due to only oversight. 'Oversight' means, according to *Oxford Advanced Learner's Dictionary*, the fact of making a mistake because you forget to do or you do not notice. Where according to the petitioner, there was delay by chartered accountant in finalizing the accounts and it was for that reason that the notice in Form No. 10 for accumulation was not filed within the time indicated in rule 17 and the Commissioner rejected the application for condonation of delay in giving Form 10 under rule 17, the authority was directed to pass an order in the light of the CBDT circular prescribing conditions for admitting applications by the Commissioner under section 11(2) read with rule 17. - *Kerala Rural Employment & Welfare Society v. Asstt. DIT* [2009] 184 Taxman 93 (Ker.). Intimation required under section 11(2), read with rule 17, has to be furnished before assessing authority completes concerned assessment because such requirement is mandatory - *CIT v. Nagpur Hotel Owners' Association* [2001] 114 Taxman 255/247 ITR 201 (SC) [See also *CIT v. Mayur Foundation* [2005] 274 ITR 562 (Guj.)/*CIT v. Simla Chandigarh Diocese Society* [2009] 318 ITR 96 (P&H)]. Rule 17 is unambiguously specific insofar as it mandates that the notice shall be delivered before the expiry of the time allowed under section 139(1) for furnishing the return of income. By no stretch of imagination can the extended period which is given under section 139(4) be made available for giving the notice for accumulation of income by charitable trust or institution beyond the period mentioned in section 139(1). - *Kerala Rural Employment & Welfare Society v. Asstt. DIT* [2009] 184 Taxman 93 (Ker.). Plurality of purposes for accumulation of income is not prohibited - *Director of Income-tax v. Mitsui & Co. Environmental Trust* [2007] 211 CTR (Delhi) 352. So long as one or more of the purposes specified in Form No. 10 finds a place in the objects for which the assessee-society has been incorporated, and those purposes are charitable, exemption benefit under section 11 cannot be denied - *Director of Income-tax (Exemption) v. Daulat Ram Education Society* [2005] 278 ITR 260 (Delhi). Where assessee had mentioned that accumulation of income was towards all the three objects for which it was created, exemption cannot be denied merely because assessee had not specifically mentioned the purposes - *Bharat Kalyan Pratisthan v. Director of Income-tax* [2007] 160 Taxman 216 (Delhi). Where assessee had indicated that accumulation of income was for the "on-going projects" (without specified them), and those objects were found to be charitable, benefit of exemption cannot be denied - *Director of Income-tax (Exemption) v. Mamta Health Institute for Mother & Children* [2007] 162 Taxman 235 (Delhi). An assessee can give notice in writing in Form No. 10 for more than one year in order to claim accumulation of income under section 11(2), and claim of assessee cannot be denied merely on ground that in subsequent year or years no further notice is given by assessee - *Cotton Textiles Export Promotion Council v. ITO* [2008] 20 SOT 187 (Mum. - Trib.). For details, see Taxmann's Master Guide to Income-tax Rules.

²⁵[Application for registration of charitable or religious trusts, etc.]

17A. An application under ²⁶[clause (aa) of sub-section (1)] of section 12A for registration of a charitable or religious trust or institution shall be made in duplicate in Form No. 10A and shall be accompanied by the following documents, namely :—

- (a) where the trust is created, or the institution is established, under an instrument, the instrument in original, together with one copy thereof; and where the trust is created, or the institution is established, otherwise than under an instrument, the document evidencing the creation of the trust or the establishment of the institution, together with one copy thereof :
Provided that if the instrument or document in original cannot conveniently be produced, it shall be open to the ²⁷[²⁸[**]] Commissioner] to accept a certified copy in lieu of the original;
- (b) where the trust or institution has been in existence during any year or years, prior to the financial year in which the application for registration is made, two copies of the accounts of the trust or institution relating to such prior year or years (not being more than three years immediately preceding the year in which the said application is made) for which such accounts have been made up.]

²⁹[Audit report in the case of charitable or religious trusts, etc.]

17B. The report of audit of the accounts of a trust or institution which is required to be furnished under clause (b) of section 12A, shall be in Form No. 10B.]

25. Inserted by the IT (Second Amdt.) Rules, 1973, w.e.f. 1-4-1973.

For purposes of entitlement to registration under section 12A, no distinction is made between a 'trust' and an institution created by an individual or by Government - *Mormugao Port Trust v. CIT* [2007] 109 ITD 303 (Panaji - Trib.). Where a trust is not created under an instrument, the words 'documents evidencing the creation of the trust' will embrace evidentiary documents which afford a logical basis for inferring the creation of the trust - *Laxminarayan Maharaj v. CIT* [1984] 150 ITR 465 (MP). Where application for registration is not accompanied with the accounts, the accounts can be produced during the course of hearing before the Commissioner for his consideration - *Sahitya Sadawart Samiti v. CIT* [2008] 23 SOT 49 (Jp. - Trib.)(URO). At the time of considering the application for registration, the Commissioner has to examine whether the application conforms to the requirements of section 12A and rule 17A and whether Form No. 10A has been properly filled, and whether the objects of the trust are charitable. It will not be proper for him to examine the application of income at this stage - *Fifth Generation Education Society v. CIT* [1990] 185 ITR 634 (All.). Assessee must be provided opportunity of hearing before refusing condonation of delay in filing the application for registration, since such refusal has adverse consequences for the assessee - *Society of Divine Providence v. Union of India* [1998] 146 CTR (MP) 417. Authority is required to adopt a pragmatic and liberal approach while dealing with an application seeking condonation of delay in making the prayer for registration under section 12A - *CIT v. Shrimanta Sankar Academy* [2010] 325 ITR 261 (Gau.). For details, see Taxmann's Master Guide to Income-tax Rules.

26. Substituted for "clause (a)" by the IT (Seventh Amdt.) Rules, 2007, w.e.f. 1-6-2007.

27. Substituted for "Commissioner" by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988.

28. Words "Chief Commissioner or" omitted by the IT (Seventh Amdt.) Rules, 2007, w.e.f. 1-6-2007.

29. Inserted by the IT (Second Amdt.) Rules, 1973, w.e.f. 1-4-1973.

While filing Form No. 10B, an auditor can accept as correct the list of persons covered by section 13(3) by the managing trustees and base his report on the strength of the certificate—*Circular No. 143, dated 20-8-1974*. The direction that the audit report should accompany the return is not mandatory as the omission to do it may be rectified by filing the report at a later stage before the assessment is completed. Where the Assessing Officer did not provide an opportunity to the assessee to file the audit report which was actually available with the assessee, the first appellate authority would be justified in accepting the audit report and directing the Assessing Officer to redo the assessment - *CIT v. Hardeodas Agarwalla Trust*

(Contd. on p. 1.142)

³⁰**[Forms or modes of investment or deposits by a charitable or religious trust or institution.]**

17C. The forms and modes of investment or deposits under clause (xii) of sub-section (5) of section 11 shall be the following, namely :—

- (i) investment in the units issued under any scheme of the mutual fund referred to in clause (23D) of section 10 of the Income-tax Act, 1961;
³¹[* * *]
- (ii) any transfer of deposits to the Public Account of India;]
- ³²[(iii) deposits made with an authority constituted in India by or under any law enacted either for the purpose of dealing with and satisfying the need for housing accommodation or for the purpose of planning, development or improvement of cities, towns and villages, or for both;]
- ³³[(iv) investment by way of acquiring equity shares of a depository as defined in clause (e) of sub-section (1) of section 2³⁴ of the Depositories Act, 1996 (22 of 1996);]
- ³⁵[(v) investment made by a recognised stock exchange referred to in clause (f) of section 2 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956) (hereafter referred to as investor) in the equity share capital of a company (hereafter referred to as investee)—
 - (A) which is engaged in dealing with securities or mainly associated with the securities market;
 - (B) whose main object is to acquire the membership of another recognised stock exchange for the sole purpose of facilitating the members of the investor to trade on the said stock exchange through the investee in accordance with the directions or guidelines issued under the Securities and Exchange Board of India Act, 1992 (15 of 1992) by the Securities and Exchange Board of India established under section 3 of that Act; and

(Contd. from p. 1.141)

[1992] 198 ITR 511 (Cal.). Requirement of filing audit report is directory and not mandatory and it is sufficient if the same is filed during the course of assessment proceedings - *CIT v. Devradhan Madhavlal Genda Trust* [1998] 230 ITR 714 (MP). Where the first appellate authority held that non-filing of the audit report was a 'defect', but nevertheless granted the benefit of exemption under section 11 without receiving the audit report, and the Tribunal affirmed the order, the order of the Tribunal could not be sustained - *Director of Income-tax (Exemptions) v. SPIC Educational Foundation* [2002] 257 ITR 46 (Mad.). Where the fact that the audit report existed and that it was produced before the first appellate authority was not denied by the Revenue, appeal by Revenue under section 260A was liable to be dismissed - *Director of Income-tax (Exemptions) v. Sindhi Panchayat* [2002] 124 Taxman 23 (Delhi). For details, see Taxmann's Master Guide to Income-tax Rules.

30. Inserted by the IT (Eighth Amtd.) Rules, 1990, w.e.f. 29-3-1990.

31. Omitted by the IT (Sixteenth Amtd.) Rules, 1990, w.r.e.f. 29-3-1990. Earlier, it was inserted by the IT (Eighth Amtd.) Rules, 1990, w.e.f. 29-3-1990.

32. Inserted by the IT (First Amtd.) Rules, 1995, w.e.f. 6-1-1995.

33. Inserted by the IT (Fifteenth Amtd.) Rules, 1998, w.e.f. 17-9-1998.

34. Clause (e) of section 2(1) of the Depositories Act, 1996, defines "depository" as under :

'(e) "depository" means a company formed and registered under the Companies Act, 1956 (1 of 1956) and which has been granted a certificate of registration under sub-section (1A) of section 12 of the Securities and Exchange Board of India Act, 1992 (15 of 1992);'

35. Inserted by the IT (Tenth Amtd.) Rules, 2006, w.r.e.f. 26-11-1999.

(C) in which at least fifty-one per cent of equity shares are held by the investor and the balance equity shares are held by members of such investor;]

³⁶[(vi) investment by way of acquiring equity shares of an incubatee by an incubator.

Explanation.—For the purposes of this clause,—

(a) “incubatee” shall mean such incubatee as may be notified by the Government of India in the Ministry of Science and Technology;

(b) “incubator” shall mean such Technology Business Incubator or Science and Technology Entrepreneurship Park as may be notified by the Government of India in the Ministry of Science and Technology;]

³⁷[(vii) investment by way of acquiring shares of National Skill Development Corporation.]

³⁸**[Prescribed foreign projects for the purposes of deduction in respect of profits and gains from projects outside India under section 80HHB.**

17D. For the purposes of sub-clause (iii) of clause (b) of sub-section (2) of section 80HHB, any project for execution of work of exploration, exploitation, development and production of hydrocarbons outside India shall be a foreign project.]

Accommodation and amenities to be provided by hotels.

18. [Omitted by the IT (Third Amdt.) Rules, 1973, w.e.f. 1-4-1974. Prior to its omission, original rule 18 was amended by the IT (Third Amdt.) Rules, 1964/1967 and IT (Second Amdt.) Rules, 1968.]

Prescribed authority to certify the daily average number of rehabilitated employees in an industrial undertaking.

18A. [Omitted by the IT (Third Amdt.) Rules, 1976, w.e.f. 1-4-1976. Original rule 18A was inserted by the IT (Fourth Amdt.) Rules, 1968 and later amended by the IT (Second/Third Amdt.) Rules, 1970.]

Prescribed authority for approval of a hotel under section 80CC.

18AA. ³⁹[Omitted by the IT (Fifth Amdt.) Rules, 1996, w.r.e.f. 1-4-1993.]

⁴⁰**[Prescribed authority for approval of a University or any educational institution of national eminence for the purpose of section 80G.**

18AAA. For the purpose of sub-clause (iii) of clause (a) of sub-section (2) of section 80G, the prescribed authority,—

(a) in relation to a university or any non-technical institution of national eminence, shall be the Director General (Income-tax Exemptions), who shall grant approval with the concurrence of the Secretary, University Grants Commission;

(b) in relation to any technical institution of national eminence, shall be the Director General (Income-tax Exemptions) who shall grant approval with the concurrence of the Secretary, All India Council of Technical Education.

36. Inserted by the IT (Second Amdt.) Rules, 2007, w.e.f. 1-3-2007.

37. Inserted by the IT (Ninth Amdt.) Rules, 2008, w.r.e.f. 31-7-2008.

38. Inserted by the IT (Thirteenth Amdt.) Rules, 1999, w.e.f. 2-6-1999.

39. Prior to its omission, rule 18AA was inserted by the IT (Ninth Amdt.) Rules, 1990, w.e.f. 11-4-1990.

40. Inserted by the IT (Fourteenth Amdt.) Rules, 1993, w.e.f. 6-9-1993.

Explanation : For the purposes of this rule,—

- (1) “All India Council of Technical Education” means the All India Council of Technical Education established under section 3 of the All India Council for Technical Education Act, 1987 (52 of 1987);
- (2) “University Grants Commission” means the University Grants Commission established under section 4 of the University Grants Commission Act, 1956 (3 of 1956).]

⁴¹[**Prescribed authority for the purpose of receiving separate accounts from trusts or funds or institutions for providing relief to the victims of earthquake in Gujarat.**

18AAAA. (1) For the purpose of sub-section (5C) of section 80G, the prescribed authority shall be the Director General of Income-tax (Exemptions).

(2) The trust, the fund or the institution, which is established in India for a charitable purpose and is approved in terms of clause (vi) of sub-section (5) shall maintain separate accounts of income and expenditure for providing relief to the victims of earthquake in Gujarat and get such accounts audited by an accountant, as defined in the *Explanation* to sub-section (2) of section 288 and furnish the report of such audit, duly signed and verified by such accountant to the Director General of Income-tax (Exemptions) in Form No. 10AA. Such authority, on receipt of the accounts in the said form, shall give the finding as to whether the donations received for the purpose of providing relief to the victims of earthquake in Gujarat are chargeable to tax in the hands of the trusts or the fund or the institution under clause (23C) of section 10 or under section 12 or not, as the case may be, and determine the extent thereof.

(3) Where the findings of the Director General of Income-tax (Exemptions) are not beneficial to the assessee, such authority shall give an opportunity to the assessee before making the findings.

(4) The Director General of Income-tax (Exemptions) shall bring his findings to the knowledge of the concerned Assessing Officer within one month of making such findings.]

⁴²[**Guidelines for specifying an association or institution for the purposes of notification under clause (c) of sub-section (2) of section 80G.**

18AAAAA. In specifying an association or institution for notification under clause (c) of sub-section (2) of section 80G, the Central Government shall satisfy itself that,—

- (a) the association or institution has as its object the control, supervision, regulation or encouragement in India of the games or sports notified under *Explanation 4* to section 80G;
- (b) the association or institution has a proven record of its dedication towards development of infrastructure of sports or games or promotion of sports or games for at least a period of three years;
- (c) the association or institution does not distribute any part of its income in any manner to its members except as grants to any association or institution affiliated to it;

41. Inserted by the IT (Twenty-second Amdt.) Rules, 2002, w.r.e.f. 3-2-2002.

42. Inserted by the IT (Twenty-sixth Amdt.) Rules, 2002, w.e.f. 29-11-2002.

- (d) the association or institution applies the amount received by way of donation referred to in clause (c) of sub-section (2) of section 80G for purposes of development of infrastructure for games or sports in India or for sponsoring of games or sports in India;
- (e) the association or institution maintains regular accounts of its receipt and expenditure;
- (f) the association or institution files its return of income regularly;
- (g) the notification issued by the Central Government under clause (c) of sub-section (2) of section 80G shall have effect in relation to the 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 such notification.]

⁴³**[Prescribed authority for approval of companies engaged in Scientific and Industrial Research and Development for the purposes of section 80-IA.**

18AAB. For the purposes of sub-section (4B) of section 80-IA, the prescribed authority shall be the Secretary, Department of Scientific and Industrial Research, Ministry of Science and Technology, Government of India.]

⁴⁴**[Form of audit report for claiming deduction under section 80HH.**

18B. The report of audit of the accounts of an assessee, other than a company or a co-operative society, which is required to be furnished under sub-section (5) of section 80HH shall be in Form No. 10C.]

⁴⁵**[Form of audit report for claiming deduction under section 80HHA.**

18BB. The report of the audit of the accounts of an assessee, other than a company or a co-operative society, which is required to be furnished under sub-section (4) of section 80HHA shall be in Form No. 10CC.]

⁴⁶⁴⁷**[Form of reports for claiming deduction under section 80HHB or under section 80HHC or under section 80HHD and prescribed authority under section 80HHD.]**

18BBA. (1) The report of the audit of the accounts of an assessee, other than a company or a co-operative society, which is required to be furnished under clause (i) of sub-section (3) of section 80HHB shall be in Form No. 10CCA.

⁴⁸**[(1A) The report of the audit of the accounts of an assessee which is required to be furnished under clause (i) of sub-section (2) of section 80HHBA shall be in Form No. 10CCAA.]**

43. Inserted by the IT (Tenth Amdt.) Rules, 1996, w.e.f. 1-4-1997.

44. Inserted by the IT (Fifth Amdt.) Rules, 1974. Deduction under section 80HH is not available with effect from the assessment year 2000-01.

45. Inserted by the IT (Sixth Amdt.) Rules, 1977, w.e.f. 1-4-1978. Deduction under section 80HHA is not available with effect from the assessment year 2000-01.

46. Substituted by the IT (Tenth Amdt.) Rules, 1986, w.e.f. 1-4-1987. Original rule 18BBA was inserted by the IT (Seventh Amdt.) Rules, 1982, w.e.f. 1-4-1983. See also Circular No. 1 of 2001, dated 17-1-2001 on filing of auditor's report in old format. Deductions under sections 80HHB, 80HHBA, 80HHC, 80HHD, 80HHE and 80HHF are not allowable with effect from the assessment year 2005-06 onwards.

47. Substituted by the IT (Eleventh Amdt.) Rules, 1989, w.e.f. 30-11-1989. Earlier, it was substituted by the IT (Fifth Amdt.) Rules, 1989, w.e.f. 18-5-1989.

48. Inserted by the IT (Second Amdt.) Rules, 1999, w.e.f. 15-1-1999.

⁴⁹[(1B) The certificate from an accountant which is required to be furnished by the assessee under clause (ia) of sub-section (3) of section 80HHB shall be in Form No. 10CCAH.]

⁵⁰[(2) The certificate from the Export House or Trading House which is required to be furnished by the supporting manufacturer under clause (b) of sub-section (4A) of section 80HHC shall be in Form No. 10CCAB.]

⁵¹[(2A) The certificate from the undertaking in the Special Economic Zone which is required to be furnished under proviso to sub-section (4) of section 80HHC by an undertaking referred to in sub-section (4C) of that section shall be in Form No. 10CCABA.]

(3) The report of an accountant which is required to be furnished by the assessee under sub-section (4) or clause (a) of sub-section (4A) of section 80HHC shall be in Form No. 10CCAC.]

⁵²[(4) The report of the accountant which is required to be furnished by the assessee under sub-section (6) of section 80HHD shall be in Form No. 10CCAD.]

⁵³[(5) For the purposes of section 80HHD, the “prescribed authority” shall be the Director General in the Directorate General of Tourism, Government of India.]

⁵⁴[(6) The certificate from a person making payment to an assessee, engaged in the business of a hotel or of a tour operator or of a travel agent which is required to be furnished under sub-section (2A) of section 80HHD shall be in Form No. 10CCAE.]

⁵⁵[(7) The report of an accountant which is required to be furnished by the assessee under sub-section (4) ⁵⁶[or clause (i) of sub-section (4A)] of section 80HHE shall be in Form No. 10CCAF.]

⁵⁷[(8) The certificate from the exporting company which is required to be furnished by the supporting software developer under clause (ii) of sub-section (4A) of section 80HHE shall be in Form No. 10CCAG.]

⁵⁸[(9) The report of an accountant which is required to be furnished by the assessee under sub-section (4) of section 80HHF shall be in Form No. 10CCAI.]

49. Inserted by the IT (Twelfth Amdt.) Rules, 1999, w.e.f. 1-6-1999.

50. Substituted by the IT (Second Amdt.) Rules, 1989, w.e.f. 1-4-1989.

51. Inserted by the IT (Twenty-first Amdt.) Rules, 2003, w.e.f. 25-9-2003.

Non-furnishing of special audit certificate along with the return is a curable defect under section 139(9), which should be rectified by the Assessing Officer - *Murali Export House v. CIT* [1999] 238 ITR 257 (Cal.)/*CIT v. Magnum Export (P.) Ltd.* [2003] 262 ITR 10 (Cal.). Declaration under sub-section (4A) can be filed at any time before the completion of assessment - *CIT v. G. Krishnan Nair* [2003] 259 ITR 727 (Ker.)/*CIT v. Smt. T. Sarala Pillai* [2003] 131 Taxman 471 (Ker.)/*CIT v. Gupta Fabs* [2005] 274 ITR 620 (Punj. & Har.). Non-filing of audit report in Form No. 10CCAC along with return is a defect under section 139(9), and deduction cannot be denied on a technical ground - *CIT v. Valli Cotton Traders (P.) Ltd.* [2007] 288 ITR 400 (Mad.).

52. Inserted by the IT (Fifth Amdt.) Rules, 1989, w.e.f. 18-5-1989.

53. Inserted by the IT (Eleventh Amdt.) Rules, 1989, w.e.f. 30-11-1989.

54. Inserted by the IT (Sixth Amdt.) Rules, 1992, w.e.f. 1-4-1992.

55. Inserted by the IT (Fourth Amdt.) Rules, 1992, w.e.f. 1-4-1991.

56. Inserted by the IT (Twenty-second Amdt.) Rules, 1998, w.e.f. 23-10-1998.

57. Inserted by the IT (Twenty-third Amdt.) Rules, 1998, w.e.f. 23-10-1998.

58. Inserted by the IT (Eighteenth Amdt.) Rules, 1999, w.e.f. 1-4-2000.

⁵⁹[Form of audit report for claiming deduction under section 80-I or 80-IA or
⁶⁰80-IB or section 80-IC].

18BBB. (1) The report of the audit of the accounts of an assessee, which is required to be furnished under sub-section (7) of section 80-IA or sub-section (7) of section 80-I, except in the cases of multiplex theatres as defined in sub-section (7A) of section 80-IB or convention centres as defined in sub-section (7B) of section 80-IB ⁶¹[or hospitals in rural areas as defined in sub-section (11B) of section 80-IB], shall be in Form No. 10CCB.

(2) A separate report is to be furnished by each undertaking or enterprise of the assessee claiming deduction under section 80-I or 80-IA or 80-IB ⁶¹[or 80-IC] and shall be accompanied by the Profit and Loss Account and Balance Sheet of the undertaking or enterprise as if the undertaking or the enterprise were a distinct entity.

(3) In the case of an enterprise carrying on the business of developing or operating and maintaining or developing, operating and maintaining an infrastructure facility, the form shall be accompanied by a copy of the agreement of the enterprise with the Central Government or the State Government or the local authority for carrying on the business of developing or operating and maintaining or developing, operating and maintaining the infrastructure facility.

(4) In any other case, the form shall be accompanied by a copy of the agreement, approval or permission, as the case may be, to carry on the activity signed or issued by the Central Government or the State Government or the local authority for carrying on the eligible business.]

⁶²[Prescribed authority for approval of hotels located in certain areas.

18BBC. (1) For the purposes of sub-clause (iii) of clause (c) of sub-section (7) of section 80-IB, the prescribed authority,—

59. Substituted by the IT (Twenty-third Amdt.) Rules, 2002 [as amended by the IT (Ninth Amdt.) Rules, 2003], w.e.f. 6-9-2002. Prior to its substitution, rule 18BBB, as inserted by the IT (Seventh Amdt.) Rules, 1983, w.e.f. 19-8-1983 and later on amended by the IT (Seventh Amdt.) Rules, 1992, w.e.f. 27-3-1992 and IT (Fifteenth Amdt.) Rules, 1999, w.e.f. 1-4-2000, read as under:

"18BBB. *Form of audit report for claiming deduction under section 80-I or section 80-IA.*—The report of the audit of the accounts of an assessee, other than a company or a co-operative society, which is required to be furnished under sub-section (7) of section 80-I or sub-section (7) of section 80-IA shall be in Form No. 10CCB."

If the assessee fails to file audit report along with return of income but files it subsequently before completion of assessment, deduction can be allowed provided that the delay in filing audit report was for good and sufficient reasons - *CIT v. Panama Chemicals Works* [2007] 292 ITR 147 (MP). Where assessee had claimed deduction under section 80-IB and though Form 10CCB and other requisite documents had been furnished along with return, Assessing Officer made assessment without referring to said documents, there was no merit in revenue's claim that assessee should file revised return to claim deduction - *CIT v. Ramco International* [2009] 180 Taxman 584 (Punj. & Har.). For details, see Taxmann's Master Guide to Income-tax Rules.

60. Substituted for "section 80-IB" by the IT (Third Amdt.) Rules, 2005, w.e.f. 4-2-2005.

61. Inserted, *ibid*.

62. Substituted by the IT (Nineteenth Amdt.) Rules, 1999, w.e.f. 1-4-2000. Prior to its substitution, rule 18BBC, as inserted by the IT (Seventh Amdt.) Rules, 1992, w.e.f. 27-3-1992 and amended by the IT (Eighth Amdt.) Rules, 1998, w.e.f. 29-5-1998, read as under :

"18BBC. *Prescribed authority for approval of hotels located in certain areas.*—(1) For the purposes of clause (v) of sub-section (4) of section 80-IA, the prescribed authority,

(Contd. on p. 1.148)

- (a) in relation to hotels located in an area or place referred to in clause (a) of that sub-section, shall be the Director General (Income-tax Exemptions) who shall grant approval on the concurrence of the Director General in the Directorate General of Tourism, Government of India;
- (b) in relation to hotels located in any place referred to in clause (b) of that sub-section, shall be the Director General in the Directorate General of Tourism, Government of India.

(2) For the purpose of clause (a) of sub-section (7) of section 80-IB, a hotel shall be approved by the prescribed authority if the following conditions are fulfilled, namely :—

- (a) such hotel is located in an area or place specified under clause (a) of the said sub-section (7);
- (b) there are not more than 300 hotel rooms of 3-star category and above in the aggregate, in areas or places specified under clause (a) of the said sub-section (7) within the jurisdiction of the revenue sub-division in which the hotel is located;

(Contd. from p. 1.147)

- (a) in relation to hotels located in an area or place referred to in clause (iii) or clause (iiia) of that sub-section, shall be the Director General (Income-tax Exemptions) who shall grant approval on the concurrence of the Director General in the Directorate General of Tourism, Government of India;
- (b) in relation to hotels located in any place referred to in clause (iv) or clause (iva) of that sub-section, shall be the Director General in the Directorate General of Tourism, Government of India.

(2) For the purpose of clause (iii) of sub-section (4), and the first proviso to clause (ii) of sub-section (5) of section 80-IA, a hotel shall be approved by the prescribed authority if the following conditions are fulfilled, namely :—

- (a) such hotel is located in an area or place specified under clause (iii) of the said sub-section (4);
- (b) there are not more than 300 hotel rooms of 3-star category and above in the aggregate, in areas or places specified under clause (iii) of the said sub-section (4) within the jurisdiction of the revenue sub-division in which the hotel is located;
- (c) in case the hotel is located in a place where there is need for development of infrastructure for tourism, such place has been specified by the Central Government under clause (iii) of the said sub-section (4) on the recommendations of the Department of Tourism.

(3) For the purpose of clause (iiia) of sub-section (4), and the proviso to clause (iia) of sub-section (5) of section 80-IA, a hotel shall be approved by the prescribed authority if the following conditions are fulfilled, namely :—

- (a) such hotel is located in an area or place specified under clause (iiia) of the said sub-section (4);
- (b) there are not more than 1,000 hotel rooms of 3-star category and above in the aggregate, in areas or places specified under clause (iiia) of the said sub-section (4) within the jurisdiction of the revenue sub-division in which the hotel is located;
- (c) in case the hotel is located in a place where there is need for development of infrastructure for tourism, such place has been specified by the Central Government under clause (iiia) of the said sub-section (4) on the recommendations of the Department of Tourism.”

- (c) in case the hotel is located in a place where there is need for development of infrastructure for tourism, such place has been specified by the Central Government under clause (a) of the said sub-section (7) on the recommendations of the Department of Tourism.]

⁶³**[Prescribed authority for approval of companies carrying on scientific and industrial research and development.**

18BBD. For the purposes of sub-section (4B) of section 80-IA, the prescribed authority shall be the Secretary in the Department of Scientific and Industrial Research and Development, Ministry of Science and Technology, Government of India.]

⁶⁴**[Computation of profits of certain activities forming integral part of a highway project for the purpose of section 80-IA.**

18BBE. (1) For the purpose of sub-section ⁶⁵[(6)] of section 80-IA, the profits of housing or other activities, which are integral part of a highway project, shall be computed on the basis and manner specified below :—

- (i) in a case where the annual profits of the housing or other activities which are integral part of a highway project can be arrived at in accordance with the regular method of accounting followed, the profits so arrived at as computed under the provisions of the Act;
- (ii) in any other case, the amount of profits arrived at based on the percentage of completion of the activities referred to in clause (i) during the relevant previous year.

(2) Every assessee shall maintain separate accounts for the activities referred to in sub-rule (1) and shall submit a certificate from an accountant, specifying the amount credited to the reserve account and the amount utilised during the relevant previous year for the highway project.

Explanation : For the purposes of this rule, “accountant” means,—

- (i) a Chartered Accountant⁶⁶ within the meaning of the Chartered Accountants Act, 1949 (38 of 1949); or
- (ii) any person who, in relation to any State, is, by virtue of the provisions in sub-section (2) of section 226⁶⁷ of the Companies Act, 1956 (1 of 1956), entitled to be appointed to act as an auditor of companies registered in that State.

(3) The certificate referred to in sub-rule (2) shall be in Form No. 10CCC.]

63. Inserted by the IT (Fifth Amdt.) Rules, 1996, w.e.f. 21-11-1996.

64. Inserted by the IT (Third Amdt.) Rules, 1998, w.e.f. 4-2-1998.

65. Substituted for “(7A)” by the IT (Sixteenth Amdt.) Rules, 1999, w.e.f. 1-4-2000.

66. Clause (b) of section 2 of the Chartered Accountants Act, 1949, defines “chartered accountant” as follows :

‘(b) “chartered accountant” means a person who is a member of the institute;’

67. For text of section 226 of the Companies Act, 1956, see **Appendix**.

⁶⁸[**Eligibility of Industrial Parks for benefits under section 80-IA(4)(iii).**

18C. (1) The undertaking shall begin to develop, develop and operate or maintain and operate an industrial park any time during the period beginning on the 1st day of April, 2006, and ending on the 31st day of March, ⁶⁹[2011].

(2) The undertaking and the Industrial Park shall be notified⁷⁰ by the Central Government under the Industrial Park Scheme, 2008.

(3) The undertaking shall continue to fulfil the conditions envisaged in the Industrial Park Scheme, 2008.]

⁷¹[**Prescribed authority for approval of companies carrying on scientific research and development.**

18D. (1) For the purposes of sub-section (8A) of section 80-IB, the prescribed authority shall be the Secretary, Department of Scientific and Industrial Research, Ministry of Science and Technology, Government of India.

(2) The prescribed authority shall initially grant approval to a company carrying on scientific research and development for a period of three assessment years and subject to satisfactory performance of that company on periodic review extend the said approval for a further period of three assessment years so that the total period of approval is for ten consecutive assessment years, beginning from the initial assessment year.

Prescribed conditions for deduction under sub-section (8A) of section 80-IB.

18DA. (1) Any company carrying on scientific research and development shall be eligible for deduction specified in sub-section (8A) of section 80-IB, if such company—

- (a) is registered in India;
- (b) has its main object the scientific and industrial research and development;
- (c) has adequate infrastructure such as laboratory facilities, qualified manpower, scale-up facilities and prototype development facilities for undertaking scientific research and development of its own;

68. Substituted by the IT (First Amtd.) Rules, 2008, w.e.f. 8-1-2008. Prior to its substitution, rule 18C, as amended by the IT (Sixteenth Amtd.) Rules, 2002, w.r.e.f. 1-4-2001, IT (Twenty-sixth Amtd.) Rules, 1998, w.e.f. 24-12-1998, IT (Fifth Amtd.) Rules, 1996, w.r.e.f. 1-4-1989 and IT (Third Amtd.) Rules, 1975, w.e.f. 1-4-1976, read as under :

"18C. *Eligibility of Industrial Parks and Special Economic Zones for benefits under section 80-IA(4)(iii).*—(1) The undertaking shall begin to operate an industrial park during the period beginning on the 1st day of April, 1997, and ending on the 31st day of March, 2002.

(1A) The undertaking shall begin to develop or develop and operate or maintain and operate a special economic zone any time during the period beginning on the 1st day of April, 2001 and ending on 31st day of March, 2006.

(2) The undertaking shall be duly approved by the Ministry of Commerce and Industry in the Central Government under the scheme for industrial park or Special Economic Zones notified by that Ministry.

(3) The undertaking shall continue to fulfil the conditions envisaged in the scheme.

(4) On approval under sub-rule (2), the Central Board of Direct Taxes, shall notify industrial parks for benefits under section 80-IA."

69. Substituted for "2009" by the IT (Fifth Amtd.) Rules, 2010, w.e.f. **21-5-2010**.

70. See Industrial Park Scheme, 2008.

71. Inserted by the IT (First Amtd.) Rules, 2001, w.e.f. 31-1-2001.

- (d) has a well formulated research and development programme comprising of time bound research and development projects with proper mechanism for selection and review of the projects or programme;
 - (e) is engaged exclusively in scientific research and development activities leading to technology development, improvement of technology and transfer of technology developed by themselves;
 - (f) submits the annual return alongwith statement of accounts and annual report within eight months after the close of each accounting year to the prescribed authority.
- (2) Every company which is approved under sub-rule (2) of rule 18D shall—
- (a) sell any prototype or output, if any, from its laboratories or pilot plants with the prior permission of the prescribed authority;
 - (b) intimate the change, if any, in its memorandum of association and articles of association relating to its main objects and forward the altered copy of its memorandum of association and articles of association to the prescribed authority;
 - (c) apply for extension of the approval at least three months before expiry of the approval already granted by the prescribed authority;
 - (d) have a system of monitoring the cost of research and development projects.
- (3) If, at any stage, it is found that—
- (a) the approval granted to the company referred to in sub-rule (2) of rule 18D is to avoid payment of taxes by its group companies or companies related to its directors or majority of its shareholders;
 - (b) any provisions of the Act or the rules have been violated,
- the prescribed authority specified may withdraw the approval so granted.
- (4) Every company referred to in sub-rule (1) shall make an application to the prescribed authority for the purposes of obtaining approval.
- (5) Every application referred to in sub-rule (4) shall be accompanied by—
- (a) memorandum of association and articles of association incorporating all amendments duly certified by the company secretary or managing director of the company;
 - (b) annual report of the company for the last three years, if available;
 - (c) photocopies of the memorandum of understanding relating to all on-going and future sponsored research projects or programmes.
- (6) The prescribed authority may call for any information or document which may be necessary for consideration of the grant of approval under sub-rule (2) of rule 18D.
- (7) The prescribed authority shall grant approval within four months from the date of receipt of the application :
- Provided** that where the approval is not granted, the decision of the said authority shall be communicated to the applicant within the said period of four months :
- Provided further** that no approval shall be refused unless the applicant has been given an opportunity of being heard.]

⁷²**[Prescribed area, facilities and amenities for multiplex theatres and particulars of audit report, for deduction under sub-section (7A) and clause (da) of sub-section (14) of section 80-IB.**

18DB. (1) For the purpose of sub-section (7A) and clause (da) of sub-section (14) of section 80-IB, the multiplex theatre shall have the following area, facilities and amenities :—

- (a) The total built-up area occupied by all the cinema theatres comprised in the multiplex shall not be less than 22,500 square feet, and shall consist at least 50% of the total built-up area of the multiplex excluding the area specified for parking.
- (b) The multiplex theatres shall be comprised of at least three cinema theatres and at least three commercial shops.
- (c) Total seating capacity of all the cinema theatres comprised in the multiplex shall be at least 900 seats, and no cinema theatre should consist of less than 100 seats.
- (d) The total built-up area occupied by all the commercial shops comprised in the multiplex theatre shall not be less than 3000 sq. ft., and the minimum built-up area of each shop shall not be less than 250 sq. ft.
- (e) There shall be at least one lobby or foyer in the cinema theatres, whose area shall be at least 3 sq. ft. per seat.
- (f) The multiplex theatre shall have adequate parking, toilet blocks and other public conveniences, as per local building or cinema regulations, and shall also fulfil all local building or cinema regulations in respect of fire and safety.
- (g) The cinema theatres comprised in the multiplex theatre shall use modern stereo projection systems with at least two screen speakers per screen and one surround speaker per 25 seats in a theatre.
- (h) The cinema theatres shall use seats with seat pitch not less than 20" (centre to centre).
- (i) Ticketing system employed by the cinema theatres shall be fully computerised.
- (j) The multiplex theatre cinema shall be centrally air-conditioned.

Explanation.—For the purposes of this rule, the expression “modern stereo projection systems” shall consist of xenon lamp, platter and digital sound systems.

(2) A separate report of the audit, shall be furnished along with the return of income in respect of each eligible multiplex theatre, in Form No. 10CCBA and shall be duly signed and verified by an accountant as defined in the *Explanation* below sub-section (2) of section 288.

(3) In the first year of the claim of deduction, the assessee shall enclose along with the audit report, a copy of approvals for exhibition of cinema given by various State or local authorities, which shall, where applicable, include the following :—

- (a) no-objection certificate with respect to the location of the multiplex by the concerned licensing authority;

72. Inserted by the IT (Twenty-seventh Amdt.) Rules, 2002, w.r.e.f. 1-4-2002.

- (b) permission for construction of the multiplex by the concerned licensing authority;
- (c) permission to construct the building from the town planning authority or municipal corporation;
- (d) completion certificate or occupation certificate, as the case may be, from the town planning authority or municipal corporation, certifying the completion of the multiplex theatre, during the period commencing on the 1st day of April, 2002 and ending on the 31st day of March, 2005; and
- (e) operating license issued by the concerned licensing authority.

(4) After the first year of claim of deduction, in the subsequent four years, the audit report shall be enclosed with the operating license issued from time to time, by the concerned licensing authority for exhibition of cinema.]

⁷³[**Prescribed area, facilities and amenities for convention centres and particulars of audit report, for deduction under sub-section (7B) and clause (aa) of sub-section (14) of section 80-IB.**

18DC. (1) For the purpose of sub-section (7B) and clause (aa) of sub-section (14) of section 80-IB, the convention centre shall have the following area, facilities and amenities,—

- (i) A convention centre located in a town or city mentioned in column (1) of the table below, shall have a minimum plinth area mentioned in column (2), minimum seating capacity mentioned in column (3) and minimum number of conference or seminar halls mentioned in column (4) of the said Table, as under :—

<i>Town size population (as per 2001 census)</i>	<i>Minimum area covered plinth area (in sq. mtrs.)</i>	<i>Minimum seating capacity range</i>	<i>Minimum number of Conference or Seminar halls</i>
(1)	(2)	(3)	(4)
Below 5 lakhs	2000	200-300	2
5-10 lakhs	5000	500-750	3
10-40 lakhs	10000	1000-1500	5
Above 40 lakhs : Mega cities	15000	1500-2000	7

- (ii) The convention centre shall have conference or seminar halls, auditorium and exhibition halls for holding seminars, conferences.
- (iii) Each conference, seminar hall, exhibition hall and the auditorium of the convention centre shall be equipped with modern public address system, slide and power point projection system and LCD projector or Video screening facility.
- (iv) The convention centre shall also have a documentation centre with computers and printers, telephone with STD/ISD facilities, E-mail,

73. Inserted by the IT (Eighth Amdt.) Rules, 2004, w.r.e.f. 1-4-2002.

photocopy and scanning facility along with trained operators to provide these facilities.

- (v) The conference or seminar hall, documentation centre, auditorium and the exhibition hall of the convention centre shall be air-conditioned.
- (vi) The convention centre shall have adequate parking facility and other public conveniences as per the local building regulations and should also fulfil all local building regulations in respect of fire and safety.

(2) In addition to facilities mentioned in sub-rule (1), the convention centres may have,—

- (i) an amphi-theatre, landscaped open spaces for outdoor conference or seminar related activities;
- (ii) a kitchen, dining facility, cafeteria or restaurant only to support events in the convention centre.

(3) A separate report of the audit, shall be furnished along with the return of income in respect of each eligible convention centre, in Form No. 10CCBB and shall be duly signed and verified by an accountant as defined in the *Explanation* below sub-section (2) of section 288.

(4) In the first year of the claim of deduction, the assessee shall enclose along with the audit report, a copy of approvals for building of convention centre given by State or local authorities, which shall, where applicable, include the following :—

- (i) permission for construction of the convention centre, from the town planning authority or municipal corporation;
- (ii) completion certificate or occupation certificate, as the case may be, from the town planning authority or municipal corporation, certifying the completion of the convention centre, during the period commencing on the 1st day of April, 2002 and ending on the 31st day of March, 2005.]

⁷⁴**[Form of report for claiming deduction under sub-section (11B) of section 80-IB.**

18DD. The report of an accountant which is required to be furnished by the assessee along with the return of income, under sub-section (11B) of section 80-IB shall be in Form No. 10CCBC.]

⁷⁵**[Form of report for claiming deduction under sub-section (11C) of section 80-IB.**

18DDA. The report of an accountant which is required to be furnished by the assessee along with the return of income, under sub-section (11C) of section 80-IB shall be in Form No. 10CCBD.]

⁷⁶**[Prescribed area, minimum seating capacity, facilities and amenities for convention centres; minimum number of convention halls in the convention centres; and particulars of audit report, for deduction under section 80-ID.**

18DE. (1) For the purposes of clause (a) of sub-section (6) of section 80-ID, the convention centre shall have the following area, facilities and amenities,—

- (a) A convention centre located in the specified area mentioned in column (1) of the Table below, shall have a minimum covered plinth area

74. Inserted by the IT (Fifth Amdt.) Rules, 2005, w.e.f. 17-2-2005.

75. Inserted by the IT (Eighth Amdt.) Rules, 2008, w.e.f. 22-10-2008.

76. Inserted by the IT (Fifteenth Amdt.) Rules, 2007, w.e.f. 1-4-2008.

mentioned in column (2), minimum seating capacity mentioned in column (3) and minimum number of convention halls, for the purpose of holding conferences and seminars, mentioned in column (4) of the said Table.

TABLE

<i>Specified area</i>	<i>Minimum covered plinth area (in sq. mtrs.)</i>	<i>Minimum seating capacity</i>	<i>Minimum number of convention halls</i>
(1)	(2)	(3)	(4)
National Capital Territory of Delhi, Faridabad, Gurgaon, Gautam Budh Nagar and Ghaziabad	25000	3000	10

- (b) The convention centre shall have convention halls, whether called conference halls or seminar halls or auditorium or by any other name, for holding seminars and conferences.
- (c) Each convention hall of the convention centre shall be equipped with modern public address system, slide and power point projection system and LCD projector or Video screening facility.
- (d) The convention centre shall have a documentation centre with computers and printers, telephone with STD/ISD facilities, E-mail, photocopy and scanning facility along with trained operators to provide these facilities.
- (e) The convention centre shall be completely centrally air-conditioned.
- (f) The convention centre shall have adequate parking facility and other public conveniences as per the local building regulations and should also fulfil all local building regulations in respect of fire and safety.

(2) In addition to the facilities mentioned in sub-rule (1), the convention centres may have,—

- (a) an amphi-theatre and landscaped open spaces for outdoor conference or seminar related activities;
- (b) a kitchen, dining facility, cafeteria or restaurant only to support events in the convention centre.

(3) For the purposes of clause (iv) of sub-section (3) of section 80-ID, the report of an audit shall be in Form No. 10CCBBA.]

Computation of capital employed in an industrial undertaking or a hotel.

19. [Omitted by the IT (Fifth Amtd.) Rules, 1989, w.e.f. 18-5-1989.]

Computation of capital employed in an industrial undertaking or a ship or the business of a hotel for the purposes of section 80J.

19A. ⁷⁷[Omitted by the IT (Thirty-second Amtd.) Rules, 1999, w.e.f. 19-11-1999.]

77. Prior to its omission, rule 19A was inserted by the IT (Second Amtd.) Rules, 1968, w.e.f. 1-4-1968 and later amended by the IT (Third Amtd.) Rules, 1971, w.e.f. 1-4-1972.

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*Required to be renumbered as '65A'.

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INCOME-TAX RULES, 1962*

[SO 969, DATED 26-3-1962]

In exercise of the powers conferred by section 295 of the Income-tax Act, 1961 (43 of 1961), and rule 15 of Part A, rule 11 of Part B and rule 9 of Part C of the Fourth Schedule to that Act, the Central Board of Revenue hereby makes the following rules, namely :—

PART I

PRELIMINARY

Short title and commencement.

1. (1) These rules may be called the Income-tax Rules, 1962.
- (2) They shall come into force on the 1st day of April, 1962.

Definitions.

2. (1) In these rules, unless the context otherwise requires,—

(a) “Act” means the Income-tax Act, 1961 (43 of 1961);

¹[(aa) “authorised bank” means any bank as may be appointed by the Reserve Bank of India as its agent under the provisions of sub-section (1) of section 45 of the Reserve Bank of India Act, 1934 (2 of 1934);]

(b) “Chapter”, “section” and “Schedule” means respectively Chapter and section of, and Schedule to, the Act.

- (2) All references to “Forms” in these rules shall be construed as references to the forms set out in Appendix II hereto.

**Rules, which have been either substituted or inserted or amended by the Amending Rules notified since 1962, are annotated and indicated in the footnotes. To highlight the amendments notified during 2010 and 2011, the affected rules are printed in italics. The compendium has been enriched by incorporating therein at appropriate places latest relevant case law and clarifications issued by the CBDT.*

1. Inserted by the IT (Sixth Amdt.) Rules, 1981, w.e.f. 19-6-1981.

PART II**DETERMINATION OF INCOME***A.—Salaries*

²[Limits for the purposes of section 10(13A).]

2A. The amount which is not to be included in the total income of an assessee in respect of the special allowance referred to in clause (13A) of section 10 shall be—

- (a) the actual amount of such allowance received by the assessee in respect of the relevant period; or
- (b) the amount by which the expenditure actually incurred by the assessee in payment of rent in respect of residential accommodation occupied by him exceeds one-tenth of the amount of salary due to the assessee in respect of the relevant period; or
- ³[(c) an amount equal to—
 - (i) where such accommodation is situate at Bombay, Calcutta, Delhi or Madras, one-half of the amount of salary due to the assessee in respect of the relevant period; and

2. Inserted by the IT (Amdt.) Rules, 1965, w.e.f. 1-4-1965.

House rent allowance is normally taxable as income under the head "Salaries" - *Karamchari Union v. Union of India*[2000] 243 ITR 143 (SC). Rule 2A does not in any way run counter to the provisions of the Act - *CIT v. H.V. Yazdi* [1978] 114 ITR 14 (Cal.). House rent allowance paid to an employee who is residing in his own house is not eligible for any exemption - *CIT v. K. Balasubramanian*[1999] 106 Taxman 117 (Bom.)/ *Patil Vijaykumar v. Union of India*[1985] 151 ITR 48 (Kar.)/ *All India Lakshmi Commercial Bank Officers Union v. Union of India*[1984] 150 ITR 1 (Delhi)/ *CIT v. P.D. Singhania*[2006] 156 Taxman 504 (All.)/CBDT Letter No. F. 12/19/64-IT(A-I), dated 2-1-1967. [Earlier views to the contrary taken in *CIT v. Justice S.C. Mittal*[1980] 121 ITR 503 (Punj. & Har.), *CIT v. B.R. Tuli*[1980] 125 ITR 460 (Punj. & Har.) and *CIT v. M.S. Gujral*[1980] 125 ITR 655 (Punj. & Har.) have been statutorily superseded by the retrospective insertion of the Explanation to section 10(13A)]. 'Salary' will include dearness pay if such pay is treated as 'pay' for purposes of pension, gratuity and compensatory allowances including house rent allowance - *Circular No. 90, dated 26-6-1972*. Commission based on sales paid in addition to salary as part of the contract of employment will be 'salary' - *Gestetner Duplicators (P.) Ltd. v. CIT* [1979] 117 ITR 1 (SC). 'Salary' includes commission even if it is paid with reference to profits - *Raja Ram Kumar Bhargava v. CIT* [1963] 47 ITR 680 (All.). Contractual bonus will form part of 'salary' - *Circular No. 80, dated 4-3-1972*. For the purpose of rule 2A, salary will not include bonus - *CIT v. B. Ghosal*[1980] 125 ITR 744 (Ker.). 'Salary' will include bonus after the passing of the Payment of Bonus Act - *CIT v. India Radiators Ltd.*[1976] 105 ITR 680 (Mad.). Retired Judge appointed to any post under State/Central Government is not entitled to exemption on HRA - *Justice Challa Kondiah v. CIT*[2001] 119 Taxman 511 (AP). For purposes of deduction of tax at source, employer need not insist upon production of rent receipts by the employees, in cases where rent paid is not in excess of Rs. 3,000 per month - *Circular No. 1/2010, dated 11-1-2010*. For details, see Taxmann's Master Guide to Income-tax Rules.

3. Substituted by the IT (Fourth Amdt.) Rules, 1986, w.e.f. 1-4-1987. Original clause (c) was first substituted by the IT (Third Amdt.) Rules, 1981, w.e.f. 1-4-1981, read as under :

"(c) an amount equal to—

- (i) where such accommodation is situate in any one of the following places, namely:—
Agra, Ahmedabad, Allahabad, Amritsar, Bangalore, Bhopal, Calcutta, Coimbatore, Delhi, Faridabad, Gwalior (Lashkar), Hyderabad, Indore, Jabalpur, Jaipur, Kanpur, Lucknow, Ludhiana City, Madurai, Nagpur, Patna, Poona, Srinagar, Surat, Vadodara (Baroda) or Varanasi (Benaras) or the urban agglomeration of each of such places;
- (ii) where such accommodation is situate at Bombay, Calicut, Cochin, Ghaziabad, Hubli-Dharwar, Madras, Sholapur, Trivandrum or Vishakhapatnam;

(Contd. on p. 1.3)

(ii) where such accommodation is situate at any other place, two-fifth of the amount of salary due to the assessee in respect of the relevant period,]

(d) ⁴[****]

whichever is the least.

Explanation : In this rule—

(i) “salary” shall have the meaning assigned to it in clause (h) of rule 2 of Part A of the Fourth Schedule;

(ii) “relevant period” means the period during which the said accommodation was occupied by the assessee during the previous year.]

(iii) ⁵[****]

⁶[**Conditions for the purpose of section 10(5).**

2B. (1) The amount exempted under clause (5) of section 10 in respect of the value of travel concession or assistance received by or due to the individual from his employer or former employer for himself and his family, in connection with his proceeding,—

(a) on leave to any place in India;

(b) to any place in India after retirement from service or after the termination of his service,

shall be the amount actually incurred on the performance of such travel subject to the following conditions, namely :—

⁷[(i) where the journey is performed on or after the 1st day of October,

(Contd. from p. 1.2)

one-fifth of the amount of salary due to the assessee in respect of the relevant period; and

(iii) where such residential accommodation is situate at any other place, one-tenth of the amount of salary due to the assessee in respect of the relevant period; or”

Prior to 1-4-1981, clause (c)(i) was amended by the IT (Second Amtd.) Rules, 1966, w.e.f. 1-4-1966 and later substituted by the IT (Third Amtd.) Rules, 1975, w.e.f. 1-4-1975, respectively.

4. Omitted by the IT (Fourth Amtd.) Rules, 1986, w.e.f. 1-4-1987.

5. Omitted, *ibid.* Earlier clause (iii) was inserted by the IT (Third Amtd.) Rules, 1981, w.e.f. 20-2-1981.

6. Substituted by the IT (First Amtd.) Rules, 1989, w.e.f. 1-4-1989. Earlier, it was inserted by the IT (Third Amtd.) Rules, 1975, w.e.f. 1-4-1975.

Provisions of rule 2B(a) making difference between air travel charges and railway first class AC charges exigible to tax under the Act are not *ultra vires* provision of section 10(5) - *K.P. Harihara Kumar v. Union of India* [2004] 270 ITR 194/[2005] 142 Taxman 64 (Ker.). Quantum of exemption allowable on the second or subsequent block of 4 years need not be restricted to quantum of exemption allowed for the first block - *Fifth ITO v. S.K. Deenadayalu* [1986] 17 ITD 61 (Bang. - Trib.). Expenditure on items other than travel is not covered - *Uday C. Nanavati v. ITO* [1983] 4 ITD 591 (Bom. - Trib.). Exemption is restricted to expenditure actually incurred on travel. Fixed sums paid as leave travel assistance on the basis of self-declarations made by employees will not be exempt, since such self-declarations are not amenable to verification for purposes of ascertaining the actual expenditure incurred - *Dr. Reddy Laboratories Ltd. v. ITO* [1996] 58 ITD 104 (Hyd. - Trib.). Employer is under no statutory obligation to collect evidence to show that employee has actually utilised the amounts paid towards leave travel concession/ assistance - *CIT v. ITILtd.* [2009] 183 Taxman 219 (SC)/ *CIT v. Larsen & Toubro Ltd.* [2009] 181 Taxman 71 (SC). For details, see Taxmann’s Master Guide to Income-tax Rules.

7. Substituted by the IT (First Amtd.) Rules, 1998, w.r.e.f. 1-10-1997, as amended by Notification No. SO 201(E), dated 12-3-1998. Prior to their substitution, clauses (i), (ii) and (iii), as amended by the IT (Fifth Amtd.) Rules, 1990, w.r.e.f. 1-4-1989, read as under :

(Contd. on p. 1.4)

1997, by air, an amount not exceeding the air economy fare of the national carrier by the shortest route to the place of destination;

- (ii) where places of origin of journey and destination are connected by rail and the journey is performed on or after the 1st day of October, 1997, by any mode of transport other than by air, an amount not exceeding the air-conditioned first class rail fare by the shortest route to the place of destination; and
- (iii) where the places of origin of journey and destination or part thereof are not connected by rail and the journey is performed on or after the 1st day of October, 1997, between such places, the amount eligible for exemption shall be :—
 - (A) where a recognised public transport system exists, an amount not exceeding the 1st class or deluxe class fare, as the case may be, on such transport by the shortest route to the place of destination; and
 - (B) where no recognised public transport system exists, an amount equivalent to the air-conditioned first class rail fare, for the distance of the journey by the shortest route, as if the journey had been performed by rail.]

(2) The exemption referred to in sub-rule (1) shall be available to an individual in respect of two journeys performed in a block of four calendar years commencing from the calendar year 1986 :

⁸[**Provided** that nothing contained in this sub-rule shall apply to the benefit already availed of by the assessee in respect of any number of journeys performed before the 1st day of April, 1989 except to the extent that the journey or journeys so performed shall be taken into account for computing the limit of two journeys specified in this sub-rule.]

(3) Where such travel concession or assistance is not availed of by the individual during any such block of four calendar years, an amount in respect of the value of the travel concession or assistance, if any, first availed of by the individual during first calendar year of the immediately succeeding block of four calendar years shall be eligible for exemption.

(Contd. from p. 1.3)

- “(i) where the journey is performed on or after the 1st day of April, 1989 by rail, an amount not exceeding the air-conditioned second class fare by the shortest route to the place of destination;
- (ii) where places of origin of journey and destination are connected by rail and the journey is performed on or after the 1st day of April, 1989 by any other mode of transport, an amount not exceeding the air-conditioned second class rail fare by the shortest route to the place of destination; and
- (iii) where the places of origin of journey and destination or part thereof are not connected by rail and the journey is performed on or after the 1st day of April, 1989 between such places, the amount eligible for exemption shall be,—
 - (A) where a recognised public transport system exists, an amount not exceeding the 1st class or deluxe class fare, as the case may be, on such transport by the shortest route to the place of destination; and
 - (B) where no recognised public transport system exists, an amount equivalent to the air-conditioned second class rail fare, for the distance of the journey by the shortest route, as if the journey had been performed by rail.”

8. Inserted by the IT (Fifth Amtd.) Rules, 1990, w.r.e.f. 1-4-1989.

Explanation : The amount in respect of the value of the travel concession or assistance referred to in this sub-rule shall not be taken into account in determining the eligibility of the amount in respect of the value of the travel concession or assistance in relation to the number of journeys under sub-rule (2).]

⁹[(4) The exemption referred to in sub-rule (1) shall not be available to more than two surviving children of an individual after 1st October, 1998 :

Provided that this sub-rule shall not apply in respect of children born before 1st October, 1998, and also in case of multiple births after one child.]

¹⁰[**Guidelines for the purposes of section 10(10C).**¹¹

2BA. The amount ¹²received by an employee of—

9. Inserted by the IT (First Amdt.) Rules, 1998, w.r.e.f. 1-10-1997.

10. Substituted by the IT (Twentieth Amdt.) Rules, 1993, w.r.e.f. 18-8-1992. Prior to its substitution, rule 2BA as inserted by the IT (Sixteenth Amdt.) Rules, 1992, w.e.f. 18-8-1992 and amended by the IT (Third Amdt.) Rules, 1993, w.e.f. 26-2-1993, read as under :

'2BA. *Guidelines for the purposes of section 10(10C).*—The amount received by an employee of a public sector company or of any other company at the time of his voluntary retirement shall be exempt under clause (10C) of section 10 only if the scheme of voluntary retirement framed by the aforesaid company is in accordance with the following requirements, namely :—

- (i) it applies to an employee of the company who has completed 10 years of service or completed 40 years of age;
- (ii) it applies to all employees (by whatever name called) including workers and executives of the company excepting Directors of the company;
- (iii) the scheme of voluntary retirement has been drawn up to result in overall reduction in the existing strength of the employees of the company;
- (iv) the vacancy caused by voluntary retirement is not to be filled up, nor the retiring employee is to be employed in another company or concern belonging to the same management;
- (v) the amount receivable on account of voluntary retirement of the employee, does not exceed the amount equivalent to one and one-half months' salary for each completed year of service or salary at the time of retirement multiplied by the balance months of service left before the date of his retirement on superannuation. In any case, the amount should not exceed rupees five lakhs in case of each employee;
- (vi) the employee has not availed in the past, the benefit of any other voluntary retirement scheme.

Explanation : In this rule, the expression "salary" shall have the same meaning as is assigned to it in clause (h) of rule 2 of Part A of the Fourth Schedule.'

11. Section 10(10C) is constitutionally valid - *Shashikant Laxman Kale v. Union of India* [1990] 52 Taxman 352 (SC)/ *All India Blue Star Employees Federation v. Union of India* [1998] 234 ITR 155/101 Taxman 580 (Bom.). For clarification regarding guidelines for approval of scheme, refer to Circular No. 640, dated 26-11-1992. Benefit payable under VRS is benefit in lieu of salary and is chargeable/exempt on cessation of service, even though payment is spread over a number of years and would not be hit by second proviso to section 10(10C) - *SAIL DSP VR Employees Association 1998 v. Union of India* [2003] 128 Taxman 704/262 ITR 638 (Cal.)/ *ITO v. Dhan Sai Srivas* [2009] 183 Taxman 302 (Chhattisgarh). Terminal benefits cannot be brought within scope of 'amount received' under section 10(10C) - *SAIL DSP VR Employees Association 1998 v. Union of India* [2003] 128 Taxman 704/262 ITR 638 (Cal.). Different companies can frame different schemes of voluntary retirement for different classes of employees, provided that such scheme conforms to the guidelines prescribed in rule 3BA - *Arunkumar T. Makwanav. ITO* [2006] 156 Taxman 429 (Guj.). Amount received by employees of RBI opting for Optional Early Retirement Scheme would qualify for deduction - *Chandra Ranganathan v. CIT* [2010]

(Contd. on p. 1.6)

- (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 ¹³[authority; or]
- ¹⁴[(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)¹⁵ of section 3 of the Institutes of Technology Act, 1961 (59 of 1961); or
- ¹⁶[(viii) an institution, having importance throughout India or in any State or States, as the Central Government may, by notification in the Official Gazette¹⁷, specify in this behalf; or]
- (viii) such institute of management as the Central Government may, by notification in the Official Gazette¹⁸, specify in this behalf,]

¹⁹at the time of his voluntary retirement ²⁰[or voluntary separation] shall be exempt under clause (10C) of section 10 only if the scheme of voluntary retirement framed by the aforesaid company or authority ²¹[or co-operative

(Contd. from p. 1.5)

- 195 Taxman 418 (SC) Relief under section 89(1) is admissible upto and inclusive of assessment year 2009-10 on the taxable portion of the amount received on voluntary retirement - *CIT v. M. Raman* [2000] 245 ITR 856/[2002] 120 Taxman 328 (Mad.)/ *CIT v. G. V. Venugopal* [2005] 144 Taxman 784 (Mad.)/ *CIT v. P. Surendra Babu* [2005] 279 ITR 402/149 Taxman 82 (Ker.)/ *CIT v. S. Sundar* [2006] 284 ITR 687 (Mad.)/ *CIT v. Geetha Mohan* [2006] 201 CTR (Mad.) 537/ *CIT v. C. Ramamani* [2006] 286 ITR 61 (Mad.)/ *State Bank of Travancore v. C.B.D.T.* [2006] 151 Taxman 133 (Ker.)/ *CIT v. Nagesh Devidas Kulkarni* [2007] 291 ITR 407 (Bom.)/ *CIT v. S. Srinivasan* [2007] 160 Taxman 314 (Mad.)/ *CIT v. M. Krishnamurthy* [2009] 318 ITR 167 (Mad.)/ *CIT v. M. Abdul Kareem* [2009] 311 ITR 162 (Mad.). For details, see Taxmann's Master Guide to Income-tax Rules.
22. The word "received" should read as "received or receivable" to bring it in line with amendment made to section 10(10C) by the Finance Act, 2003, w.e.f. assessment year 2004-05.
23. Substituted for "authority," by the IT (Fifth Amdt.) Rules, 1994, w.r.e.f. 1-4-1994.
24. Inserted, *ibid.*
25. Section 3(g) of the Institutes of Technology Act, 1961, defines "Institute" as follows :
'(g) "Institute" means any of the Institutions mentioned in section 2 and includes the Indian Institute of Technology, Kharagpur, incorporated under the Indian Institute of Technology (Kharagpur) Act, 1956 (5 of 1956);'
26. Inserted by the IT (Tenth Amdt.) Rules, 2002, w.r.e.f. 1-4-2002. [Amendment in section 10(10C) was with effect from 1-4-2002.]
27. (i) International Crop Research Institute for Semi Arid Tropics - SO 645(E), dated 19-6-2002, (ii) Action for Food Production (AFPRO), New Delhi - Notification No. SO 996, dated 26-3-2004, and (iii) Govt. Tool Room & Training Centre, Rajajinagar Industrial Area, Bangalore - Notification No. 159/2004 [F. No. 200/7/2003-IT(A-I)], dated 22-6-2004.
28. (i) Indian Institutes of Management at Ahmedabad, Bangalore, Calcutta & Lucknow - SO 475(E), dated 28-6-1994, and (ii) Indian Institute of Foreign Trade, New Delhi - SO 114(E), dated 16-2-1999. For details, see Taxmann's Master Guide to Income-tax Rules.
29. The expression 'at the time of' should read as 'on' to bring it in line with amendment made to section 10(10C) by the Finance Act, 2003, w.e.f. assessment year 2004-05.
20. Inserted by the IT (Twenty-third Amdt.) Rules, 2000, w.e.f. 24-11-2000.
21. Inserted by the IT (Fifth Amdt.) Rules, 1994, w.r.e.f. 1-4-1994.

society or University or institute], as the case may be ²²[or if the scheme of voluntary separation framed by a public sector company,] is in accordance with the following requirements, namely :—

- (i) it applies to an employee ²³[***] who has completed 10 years of service or completed 40 years of age;
- ²⁴[(ii) it applies to all employees (by whatever name called) including workers and executives of a company or of an authority or of a co-operative society, as the case may be, excepting directors of a company or of a co-operative society;]
- (iii) the scheme of voluntary retirement ²⁵[or voluntary separation] has been drawn to result in overall reduction in the existing strength of the employees ²⁶[***];
- (iv) the vacancy caused by the voluntary retirement ²⁵[or voluntary separation] is not to be filled up;
- (v) the retiring employee of a company shall not be employed in another company or concern belonging to the same management;
- (vi) the amount receivable on account of voluntary retirement ²⁷[or voluntary separation] of the employee does not exceed the amount equivalent to ²⁸[three months'] salary for each completed year of service or salary at the time of retirement multiplied by the balance months of service left before the date of his retirement on superannuation²⁹ :

³⁰[**Provided** that requirement of (i) above would not be applicable in case of amount received by an employee of a public sector company under the scheme of voluntary separation framed by such public sector company.]

Explanation : In this rule, the expression “salary” shall have the same meaning as is assigned to it in clause (h) of rule 2 of Part A of the Fourth Schedule.]

22. Inserted by the IT (Twenty-third Amdt.) Rules, 2000, w.e.f. 24-11-2000.

23. Words “of the company or the authority, as the case may be,” omitted by the IT (Fifth Amdt.) Rules, 1994, w.r.e.f. 1-4-1994.

24. Substituted, *ibid*. Prior to its substitution, it read as under :

“(ii) it applies to all employees (by whatever name called) including workers and executives of the company or the authority, as the case may be, excepting Directors of the company;”

25. Inserted by the IT (Twenty-third Amdt.) Rules, 2000, w.e.f. 24-11-2000.

26. Words “of the company or the authority, as the case may be” omitted by the IT (Fifth Amdt.) Rules, 1994, w.r.e.f. 1-4-1994.

27. Inserted by the IT (Twenty-third Amdt.) Rules, 2000, w.e.f. 24-11-2000.

28. Substituted for “one and one-half months’ ” by the IT (Tenth Amdt.) Rules, 1994, w.e.f. 1-11-1994.

29. Exemption that is available under section 10(10C) has to be allowed while estimating annual income of person receiving salary, but not in respect of any single payment that may be made by employer - *Y.S.C. Babu v. Chairman & Managing Director, Syndicate Bank* [2002] 120 Taxman 88/253 ITR 1 (AP). Emphasis in rule 2BA is on amount receivable on account of voluntary scheme which should not exceed limits prescribed therein; it is not intention of Legislature that every VRS framed by companies must provide that an employee availing benefit of VRS would be paid an amount either equivalent to (1) three months’ salary for each completed year of service, or (2) salary at time of retirement multiplied by balance months of service left before date of his retirement on superannuation - *Arunkumar T. Makwana v. ITO* [2006] 156 Taxman 429 (Guj.). Rule 2BA does not provide at all that amount representing lower of two limits specified in clause (vi) of rule 2BA should be allowed under VRS - *Arunkumar T. Makwana v. ITO* [2006] 156 Taxman 429 (Guj.). For details, see Taxmann’s Master Guide to Income-tax Rules.

30. Inserted by the IT (Twenty-third Amdt.) Rules, 2000, w.e.f. 24-11-2000.

³¹[Prescribed allowances for the purposes of clause (14) of section 10.

2BB. (1) For the purposes of sub-clause (i) of clause (14) of section 10, prescribed allowances, by whatever name called, shall be the following, namely :—

- (a) any allowance granted to meet the cost of travel on tour or on transfer;
- (b) any allowance, whether, granted on tour or for the period of journey in connection with transfer, to meet the ordinary daily charges incurred by an employee on account of absence from his normal place of duty;
- (c) any allowance granted to meet the expenditure incurred on conveyance in performance of duties of an office or employment of profit :
Provided that free conveyance is not provided by the employer;
- (d) any allowance granted to meet the expenditure incurred on a helper where such helper is engaged for the performance of the duties of an office or employment of profit;
- (e) any allowance granted for encouraging the academic, research and training pursuits in educational and research institutions;
- (f) any allowance granted to meet the expenditure incurred on the purchase or maintenance of uniform for wear during the performance of the duties of an office or employment of profit.

Explanation: For the purpose of clause (a), “allowance granted to meet the cost of travel on transfer” includes any sum paid in connection with transfer, packing and transportation of personal effects on such transfer.

(2) For the purposes of sub-clause (ii) of clause (14) of section 10, the prescribed allowances, by whatever name called, and the extent thereof shall be the following, namely :—

TABLE

Sl. No.	Name of allowance	Place at which allowance is exempt	Extent to which allowance is exempt
(1)	(2)	(3)	(4)
1.	Any Special Compensatory Allowance in the nature of ³² [Special Compensatory (Hilly Areas) Allowance] or High Altitude Allowance or Uncongenial Climate Allowance or Snow Bound Area Allowance or Avalanche Allowance	I. (a) Manipur Mollan/RH-2365. (b) Arunachal Pradesh (i) Kameng; (ii) North Eastern Arunachal Pradesh where heights are 9,000 ft. and above; (iii) Areas east or west of Siang and Subansiri sectors	³³ [Rs. 800] per month

31. Inserted by the IT (Eighth Amdt.) Rules, 1995, w.e.f. 1-7-1995. Additional conveyance allowance and incentive bonus paid to LIC Officers are not covered - *CIT v. E.A. Rajendran* [1998] 235 ITR 514 (Mad.)/*LIC Class I Officers (Bombay) Association v. LIC of India* [1998] 229 ITR 510 (Bom.)/*CIT v. M.D. Patil* [1998] 229 ITR 71 (Kar.) (FB). For details, see Taxmann's Master Guide to Income-tax Rules.

32. Substituted for “Composite Hill Compensatory Allowance” by the IT (Third Amdt.) Rules, 2000, w.r.e.f. 1-8-1997.

33. Substituted for “Rs. 600”, *ibid.*

(1)	(2)	(3)	(4)
		<p>(c) Sikkim</p> <p>(i) Area North-NE-East of line Chhaten LR 0105, Launchung LR 1902, pt. 4326 LW 1790, pt. 4349 LW 1479, pt. 3601 LW 1471 to mile 13 LW 1367 to Berluk LW 2253.</p> <p>(ii) All other areas at 9,000 ft. and above.</p> <p>(d) Uttar Pradesh</p> <p>Areas of Harsil, Mana and Malari Sub-divisions and other areas of heights at 9,000 ft. and above.</p> <p>(e) Himachal Pradesh</p> <p>(i) All areas at 9,000 ft. and above ahead of line joining Puhka-jakunzomla towards the bower.</p> <p>(ii) Area ahead of line joining Karchham and Shigrila towards the bower.</p> <p>(iii) All areas in Kalpa, Spiti, Lahul and Tisa.</p> <p>(f) Jammu and Kashmir</p> <p>(i) All areas from NR 396950 to NR 350850, NR 370790, NR 311776 North of Shaikhra Village, North of Pindi Village to NR 240800.</p> <p>(ii) Areas of Doda, Sank and other posts located in areas at a height of 9,000 ft. and above.</p> <p>(iii) North of line Kud-Dudu and Basttgarh, Bilwar, Batote and Patnitop.</p>	

(1)	(2)	(3)	(4)
		<p>(iv) All areas ahead of Zojila served by Road Srinagar-Zojila-Leh in Leh District.</p> <p>(v) Gulmarg - All areas forward of line joining Anita Linyan 3309 - Kaunrali - 2407.</p> <p>(vi) Uri South - All areas forward of Kaunrali - Kandi 1810 Kustam 1505 - Sebasantra 1006 Changez 0507 - Jak 19904 Keekar 9704 Jamun 9607 Neeta 9508.</p> <p>(vii) BAAZ Kaiyan Bowl - All areas forward of Dulurja 9712-BAAZ 0317 - Shamsheer 0416 including New Shamsheer 0615 - Zorawar 1017 - Malaugan Base 1027 - Radha 0836 to Nastachun Pass 9847.</p> <p>(viii) Tangdhar - All areas west of Nastachun Pass Tangdhar Bowl and on Shamsheer Range and forward of it.</p> <p>(ix) Karan and Machhal sub-sectors - All areas along the line Pharkiangali 0869 to Z Gali 4376 and forward of Shamsheer Range.</p> <p>(x) Panzgam, Trehgam and Drugmul.</p>	<p>³⁴[Rs. 7,000] per month</p>
		<p>II. Siachen area of Jammu and Kashmir</p>	

34. Substituted for "Rs. 1,200" by the IT (Third Amtd.) Rules, 2000, w.r.e.f. 1-8-1997.

(1)	(2)	(3)	(4)
<p>³⁶[2.</p>	<p>Any Special Compensatory Allowance in the nature of Border Area Allowance, Remote Locality Allowance or Difficult Area Allowance or Disturbed Area Allowance</p>	<p>III. All places located at a height of 1,000 metres or more above the sea level, other than places specified at (I) and (II) above.</p> <p>I. (a) Little Andaman, Nicobar and Narcondum Islands;</p> <p>(b) North and Middle Andamans;</p> <p>(c) Throughout Lakshadweep and Minicoy Islands;</p> <p>(d) All places on or north of the following demarcation line: Point 14600 (2881) to Sala MS 2686-Matau MS 6777 - Sakong MT 1379-Bamong-Khonawa MO 2803 - Nyapin MO 7525 - River Khru to its junction with the river Kamla MP - 2226 - Taliha - Yapuik MK 7410 - Gshong MK 9749 - Yinki Yong NF 4324-Damoroh MF 6208 - Ahinkolin NF 8811 - Kronli MG 2407 - Hanli NM 4096 - Gurongon NM 4592-Loon NM 7579 - Mayuliang NM 0169-Chawah NM 9943 - Kamphu NM 1125 - Point 6490(NM 1493)Vijayanagar NSA 486;</p> <p>(e) Following areas in Himachal Pradesh :</p> <p>(i) Pangi Tehsil of Chamba District;</p> <p>(ii) Following Panchayats and villages of Bharmour Tehsil of Chamba District :</p> <p>(A) Panchayat : Badgaun, Bajol, Deol Kugti Naya- gam and Tundah.</p>	<p>³⁵[Rs. 300] per month</p> <p>Rs. 1,300 per month</p>

35. Substituted for "Rs. 150" by the IT (Third Amdt.) Rules, 2000, w.r.e.f. 1-8-1997.

36. Substituted, *ibid*.

(1)	(2)	(3)	(4)
		<p>(B) Villages : Ghatu of Gram Panchayat Jagat Kanarsi of Gram Panchayat, Cahata.</p> <p>(iii) Lahaul and Spiti District;</p> <p>(iv) Kinnaur district: (A) Asrang, Chitkul and Hango Kuno Charang Panchayats; (B) 15/20 Area comprising the Gram Panchayats of Chhota Khamba, Nathpa and Rupi; (C) Pooh Sub-Division excluding the Panchayat Areas specified above.</p> <p>(v) 15/20 Area of Rampur Tehsil comprising of Panchayats of Koot, Labana-Sadana, Sarpara and Chandi Branda of Shimla District.</p> <p>(vi) 15/20 Area of Nirmand Tehsil, comprising the Gram Panchayats of Kharga, Kushwar and Sarga of Kullu District.</p> <p>(f) Chimpui District of Mizoram and areas beyond 25 km. from Lunglei town in Lunglei District of Mizoram.</p> <p>(g) Following areas in Jammu and Kashmir: (i) Niabat Bani, Lohi, Malhar and</p>	

(1)	(2)	(3)	(4)
		<p>Macchodi of Kathua District;</p> <p>(ii) Dudu Basantgarh Lander Bhamag Illaqa, Thakrakote and Nagote of Udampur District;</p> <p>(iii) All areas in Tehsil Mahore except those specified at III(f)(i) below in Udampur District;</p> <p>(iv) Illaqas of Padder and Niabat Nowgaon in Kishtwar Tehsil of Doda District;</p> <p>(v) Leh District;</p> <p>(vi) Entire Gurez-Niabat, Tangdhar Sub-Division and Keran Illaqa of Baramulla District.</p> <p>(h) Following areas of Uttar Pradesh :—</p> <p>(i) Chamoli District;</p> <p>(ii) Pithoragarh District;</p> <p>(iii) Uttarkashi District.</p> <p>(i) Throughout Sikkim State.</p> <p>II. Installations in the Continental Shelf of India and the Exclusive Economic Zone of India.</p> <p>III. (a) Throughout Arunachal Pradesh other than areas covered by those specified at I(d) above.</p> <p>(b) Throughout Nagaland State.</p> <p>(c) South Andaman (including Port Blair).</p> <p>(d) Throughout Lunglei District (excluding areas beyond 25 km. from Lunglei town) of Mizoram.</p>	<p>Rs. 1,100 per month</p> <p>Rs. 1,050 per month</p>

(1)	(2)	(3)	(4)
		<p>(e) Dharmanagar, Kailasahar, Amarpur and Khowai in Tripura.</p> <p>(f) Following areas in Jammu and Kashmir :</p> <p>(i) Areas upto Goel from Kamban side and areas upto Arnas from Keasi side in Tehsil Mahore of Udhampur District;</p> <p>(ii) Matchill in Baramulla District.</p> <p>(g) Following areas in Himachal Pradesh :</p> <p>(i) Bharmour Tehsil, excluding Panchayats and villages covered by those specified at I(e)(ii) above of Chamba District;</p> <p>(ii) Chhota Bhangal and Bara Bhangal area of Kangra District;</p> <p>(iii) Kinnaur District other than areas specified at I(e)(iv);</p> <p>(iv) Dodra-Kawar Tehsil, Gram Panchayats of Darkali in Rampur, Kashapath Tehsil and Munish, Ghori Chaibis of Pargana Sarahan of Shimla District.</p> <p>IV. (a) Throughout Aizawal District of Mizoram;</p> <p>(b) Throughout Tripura except areas those specified at III(e);</p> <p>(c) Throughout Manipur;</p> <p>(d) Following areas of Himachal Pradesh :</p> <p>(i) Jhandru Panchayat in Bhatiyat Tehsil, Churah Tehsil,</p>	<p>Rs. 750 per month</p>

(1)	(2)	(3)	(4)
		<p>Dalhousie Town (including Banikhet proper) of Chamba District;</p> <p>(ii) Cuter Seraj (excluding Village of Jakat-Khana and Burow in Nirmand Tehsil of Kullu District;</p> <p>(iii) Following areas of Mandi District :</p> <p>(A) Chhuhar Valley (Joginder-nagar Tehsil);</p> <p>(B) Bagra, Chhatri, Chhot-dhar, Garagushain, Gatoo, Gharyas, Jan-jehli, Jaryar, Johar Kalhani Kalwan, Kholanal, Loth, Silibagi, Somachan, Thach-dhar, Tachi and Thana Panchayats of Thunag Tehsil;</p> <p>(C) Binga, Kamlah, Saklana, Tanyar and Tarakholah, Panchayats of Dharampur Block;</p> <p>(D) Balidhar, Bagra, Gopalpur, Khajol, Mahog, Mehudi, Manj, Pekhi, Sainj, Sarahan and Teban, Panchayats of Karsog Tehsil;</p> <p>(E) Bohi, Batwara, Dhanyara, Paura-Kothi, Seri and Shoja, Panchayats of Sundernagar Tehsil.</p>	

(1)	(2)	(3)	(4)
		<p>(iv) Following areas and offices of Kangra District :</p> <p>(A) Dharamshala town and Women's ITI; Dari, Mechanical Workshop, Ramnagar; Child Welfare and Town Country Planning Offices, Sakoh; CRSF Office at lower Sakoh; Kangra Milk Supply Scheme, Shamnagar; Tea Factory, Dari; Forest Corporation Office, Shamnagar; Tea Factory, Dari; Settlement Office, Shamnagar and Binwa Project, Shamnagar. Offices located outside the Municipal limit of Dharamshala town but included in Dharamshala town for purposes of eligibility to special Compensatory (Remote Locality) Allowance;</p> <p>(B) Palampur town, including HPKV Campus at Palampur and H.P. Krishi Vishvavidyalaya Campus; Cattle Development</p>	

(1)	(2)	(3)	(4)
		<p>Office/ Jersy Farm, Banuri; Sericulture Office/Indo-German Agriculture Workshop/HPPWD Division, Bundla; Electrical Sub-Division, Lohna; D.P.O. Corporation, Bundla and Electrical HPSEE Division, Ghuggar offices located outside the Municipal limits of Palampur town but included in Palampur town for the purpose of above allowance;</p> <p>(v) Chopal Tehsil; Ghoris, Panjgaon, Patsnu, Naubis and Teen Koti of Pargana Sarahan; Deothi Gram Panchayat of Taklesh Area; Pargana Barabis; Kasba Rampur and GhoriNog of Pargana Rampur of Rampur Tehsil of Shimla District and Shimla Town and its suburbs (Dhalli, Jatog, Kasumpti, Mashobra, Taradevi and Tutu);</p> <p>(vi) Panchayats of Bani, Bakhali (Pachhad Tehsil), Bharog Bheneri (Paonata Tehsil), Birla (Nahan Tehsil), Dibber (Pachhad Tehsil) of Thanan Kasoga (Nahan Tehsil) in Sirmour District and Transgiri Tract of Sirmour District;</p>	

(1)	(2)	(3)	(4)
3.	³⁷ [Special Compensatory (Tribal Areas/Schedule Areas/Agency Areas) Allowance]	<p>(vii) Mangal Panchayat of Solan District;</p> <p>(e) Following areas in Jammu and Kashmir :</p> <p>(i) Areas in Poonch and Rajouri Districts excluding the towns of Poonch and Rajouri and Sunderbani and other Urban areas in the two districts;</p> <p>(f) Following areas in Jammu and Kashmir :</p> <p>Areas not included in I(g), III(f) and IV(e) above, but which are within a distance of 8 km. from the line of actual control or at places which may be declared as qualifying for Border Allowance from time to time by the State Government for their own staff.</p> <p>V. Jog Falls in Shimoga District in Karnataka.</p> <p>VI. (a) Throughout the State of Himachal Pradesh other than areas covered by those specified in I(e), III(g) and IV(d)</p> <p>(b) Throughout the State of Assam and Meghalaya</p> <p>(a) Madhya Pradesh</p> <p>(b) Tamil Nadu</p> <p>(c) Uttar Pradesh</p> <p>(d) Karnataka</p> <p>(e) Tripura</p> <p>(f) Assam</p> <p>(g) West Bengal</p> <p>(h) Bihar</p> <p>(i) Orissa</p>	<p>Rs. 300 per month.</p> <p>Rs. 200 per month.]</p> <p>³⁸[Rs. 200] per month.</p>

37. Substituted for "Tribal Area Allowance" by the IT (Third Amdt.) Rules, 2000, w.r.e.f. 1-8-1997.

38. Substituted for "Rs. 100", *ibid.*

(1)	(2)	(3)	(4)
4.	Any allowance granted to an employee working in any transport system to meet his personal expenditure during his duty performed in the course of running of such transport from one place to another place, provided that such employee is not in receipt of daily allowance	Whole of India	70 per cent of such allowance up to a maximum of ³⁹ [Rs. 10,000] per month.
5.	Children Education Allowance	Whole of India	⁴⁰ [Rs. 100] per month per child up to a maximum of two children.
6.	Any allowance granted to an employee to meet the hostel expenditure on his child	Whole of India	⁴¹ [Rs. 300] per month per child up to a maximum of two children.
7.	Compensatory Field Area Allowance	(a) Following areas in Arunachal Pradesh :— (i) Tirap and Changlang Districts; (ii) All areas North of line joining point 4448 in LZ 4179-Nukme Dong MS 3272-Sepla MT 2969-Palin MO 9213-Daporijo NR 5841-Along NL 1273-Hunli NM 3196-Tidding Tuwi MT 6369-Hayuliang NN 0170-Tawaken MT 8136-Champai Bun NM 8814, all inclusive. (b) Throughout Manipur and Nagaland. (c) Following areas in Sikkim :— All areas North and North East of line joining Phalut LV 4750-Gezing LV 7059-Mangkha LV 6160-Penlang LaLW 0666-Rangli	⁴² [Rs. 2,600] per month.

39. Substituted for "Rs. 6,000" by the IT (Eighth Amtd.) Rules, 2010, w.r.e.f. **1-9-2008**. Earlier "Rs. 6,000" was substituted for "Rs. 3,000" by the IT (Third Amtd.) Rules, 2000, w.r.e.f. 1-8-1997.

40. Substituted for "Rs. 50" by the IT (Third Amtd.) Rules, 2000, w.r.e.f. 1-8-1997.

41. Substituted for "Rs. 150", *ibid*.

42. Substituted for "Rs. 1,300" by the IT (Twenty-second Amtd.) Rules, 2000, w.r.e.f. 1-5-1999. Earlier "Rs. 1,300" was substituted for "Rs. 975" by the IT (Third Amtd.) Rules, 2000, w.r.e.f. 1-8-1997.

(1)	(2)	(3)	(4)
		<p>LW 1448-BP 1 in LW 2453 on Indo-Bhutan Border, all inclusive.</p> <p>(d) Following areas in Himachal Pradesh :</p> <p>All areas East of line joining Umasila NV 3951-Udaipur NY 8663-Manikaran SB 2300-Pir Parbati Pass TA 1459-Taranda TA 2335-Barasua Pass TA 8801, all inclusive.</p> <p>(e) Following areas in Uttar Pradesh :—</p> <p>All areas North and North-East of line joining Barasua Pass Gangnani TG 1362-Govind Ghat TG 0937-Tapovan TH 1822-Musiari TN 8982-Relagad TO 2466, all inclusive.</p> <p>(f) Following areas in Jammu and Kashmir :—</p> <p>(i) Areas North and East of line joining Zojila MU 3036-Baralachala NE 6672 along the Great Himalayan Range, all inclusive;</p> <p>(ii) All areas West of line joining point 1556 in NR 5470-Gulmarg MT 3105-Naushara MY 3105-Ringapat MT 2133-Handwara MT 2043-Laingyal MT 2339-Point 8405 in NG 4565-North of line joining point 8403-Bunakut MT 5453-Razan NN 2239-Zojila, all inclusive;</p> <p>(iii) All areas West of line joining tip of Chicken Neck RD 7073-Canal junction RD 6364-Mawa Brahmana RD 6183-Chauki RD 6393-Road junction RD 6499-Baramgala MY 3854-Point 1556 in NR 5470, all inclusive.</p>	

(1)	(2)	(3)	(4)
8.	Compensatory Modified Field Area Allowance	<p>(a) Following areas in Punjab and Rajasthan :— Areas West of line joining Jessai, Barmer, Jaisalmer, Pokharan, Udasar, Mahajan Ranges, Suratgarh, Lalgah, Jattan, Abohar, Govindgarh, Fazilka, Jandiala Guru, Moga, Dholewal, Deas, Bir Sarangwal, Hussainiwala, Dera Baba Nanak, Laisain pulge upto the international border, all inclusive.</p> <p>(b) Following area in Haryana :— Satrod (Hissar).</p> <p>(c) Following areas in Himachal Pradesh :— Areas North of line joining Narkhanda, Keylong upto Field Area line/High Altitude line.</p> <p>(d) Following areas in Arunachal Pradesh and Assam :— (i) Cachar and North Cachar Districts of Assam including Silchar; (ii) All areas of Arunachal Pradesh and Assam North of river Brahmaputra except Tejpur - Misamari and Field Areas.</p> <p>(e) Throughout Mizoram and Tripura.</p> <p>(f) Following areas in Sikkim and West Bengal :— Areas Northwards of line joining Sevoke LV 9112-Burdong LV 985-Sherwani LV 9453 - Bagrakot LW 0113-Damdin LW 1109-New Mal-Hasimara-QB 7894 Ganga Ram Tea Estate QA 1377 upto the High Altitude line/field area line/international border, all inclusive.</p> <p>(g) Following areas in Uttar Pradesh :— Areas North of line joining Uttarkashi, Karan Prayag,</p>	⁴³ [Rs. 1,000] per month

43. Substituted for "Rs. 500" by the IT (Twenty-second Amtd.) Rules, 2000, w.r.e.f. 1-5-1999. Earlier "Rs. 500" was substituted for "Rs. 375" by the IT (Third Amtd.) Rules, 2000, w.r.e.f. 1-8-1997.

(1)	(2)	(3)	(4)
		<p>Gauchar, Joshimath, Chamoli, Rudra Prayag, Askote, Char-amgad, Dharchula, Kausani and Narendra Nagar upto international border, all inclusive.</p> <p>(h) Following areas in Jammu and Kashmir :—</p> <p>(i) Areas West of line joining Pattan, Baramulla, Kupwara, Drugmulla, Panges, Mankes, Buniyar, Pantha Chowk, Khanabal, Anantnag, Khundru and Khru upto the existing High altitude line, all inclusive;</p> <p>(ii) Areas West of line joining - BP-19, Brahmanadi-Bari, Jindra, Dhansal, Katra, Sanjhi Chatt, Batote, Patnitop, Ramban and Banihal upto the existing High altitude line, all inclusive.</p>	
9.	Any special allowance in the nature of counter-insurgency allowance granted to the members of armed forces operating in areas away from their permanent locations ⁴⁴ [***]	Whole of India	⁴⁵ [Rs. 3,900] per month.
⁴⁶ [10.	Transport allowance granted to an employee ⁴⁷ [other than an employee referred to in serial number 11] to meet his expenditure for the purpose of commuting between the place of his residence and the place of his duty	Whole of India	Rs. 800 per month.]
⁴⁸ [11.	Transport allowance granted to an employee, who is blind or orthopaedically handicapped with disabil-	Whole of India	Rs. 1,600 per month.]

44. Words "for a period of more than 30 days" omitted by the IT (Twenty-second Amdt.) Rules, 2005, w.e.f. 1-4-2006.

45. Substituted for "Rs. 1,300" by the IT (Twenty-second Amdt.) Rules, 2000, w.r.e.f. 1-5-1999. Earlier "Rs. 1,300" was substituted for "Rs. 975" by the IT (Third Amdt.) Rules, 2000, w.r.e.f. 1-8-1997.

46. Inserted by the IT (Seventh Amdt.) Rules, 1998, w.r.e.f. 1-8-1997.

47. Inserted by the IT (Twenty-ninth Amdt.) Rules, 1999, w.r.e.f. 1-8-1997.

48. Inserted, *ibid.*

(1)	(2)	(3)	(4)
	ity of lower extremities, to meet his expenditure for the purpose of commuting between the place of his residence and the place of his duty		
⁴⁹ [12.	Underground Allowance granted to an employee who is working in uncongenial, unnatural climate in underground ⁵⁰ [***] mines	Whole of India	Rs. 800 per month.]
⁵¹ [13.	Any special allowance in the nature of high altitude (uncongenial climate) allowance granted to the member of the armed forces operating in high altitude areas	(a) For altitude of 9,000 to 15,000 feet (b) For altitude above 15,000 feet	Rs. 1,060 per month. Rs. 1,600 per month.
14.	Any special allowance granted to the members of the armed forces in the nature of special compensatory highly active field area allowance	Whole of India	Rs. 4,200 per month.]
⁵² [15.	Any special allowance granted to the member of the armed forces in the nature of Island (duty) allowance	Andaman & Nicobar and Lakshadweep Group of Islands	Rs. 3,250 per month:]

Provided that any assessee claiming exemption in respect of the allowances mentioned at serial numbers 7 and 8 shall not be entitled to the exemption in respect of the allowance referred to at serial number 2:

Provided further that any assessee claiming exemption in respect of the allowance mentioned at serial number 9 shall not be entitled to the exemption in respect of disturbed area allowance referred to at serial number 2.]

⁵³[**Circumstances and conditions for the purposes of clause (19) of section 10.**

2BBA. (1) For the purposes of clause (19) of section 10, the circumstances of death of a member of the armed forces (including para-military forces) of the Union in the course of operational duties shall be the following, namely :—

- (i) acts of violence or kidnapping or attacks by terrorists or anti-social elements;
- (ii) action against extremists or anti-social elements;
- (iii) enemy action in international war;
- (iv) action during deployment with a peace keeping mission abroad;
- (v) border skirmishes;
- (vi) laying or clearance of mines including enemy mines as also mine sweeping operations;

49. Inserted by the IT (Fourth Amdt.) Rules, 2000, w.e.f. 24-4-2000.

50. Word "coal" omitted by the IT (Thirteenth Amdt.) Rules, 2007, w.e.f. 7-11-2007.

51. Inserted by the IT (Twenty-second Amdt.) Rules, 2000, w.r.e.f. 1-5-1999.

52. Inserted by the IT (Twenty-first Amdt.) Rules, 2000, w.r.e.f. 29-2-2000.

53. Inserted by the IT (Fourth Amdt.) Rules, 2005, w.e.f. 9-2-2005.

- (vii) explosions of mines while laying operationally oriented mine-fields or lifting or negotiation mine-fields laid by the enemy or own forces in operational areas near international borders or the line of control;
- (viii) in the aid of civil power in dealing with natural calamities and rescue operations;
- (ix) in the aid of civil power in quelling agitation or riots or revolts by demonstrators.

(2) It shall be certified by the Head of the Department where the deceased member of the armed forces (including para-military forces) last served, or the service headquarters, as the case may be, that the death of such member has occurred in the course of operational duties in circumstances mentioned in sub-rule (1).]

⁵⁴[**Amount of annual receipts for the purposes of sub-clauses (iiiad) and (iiiie) of clause (23C) of section 10.**

2BC. (1) For the purposes of sub-clause (iiiad) of clause (23C) of section 10, the amount of annual receipts on or after the 1st day of April, 1998, of any university or other educational institution, existing solely for educational purposes and not for purposes of profit, shall be one crore rupees.

(2) For the purposes of sub-clause (iiiie) of clause (23C) of section 10, the amount of annual receipts on or after the 1st day of April, 1998, of 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, shall be one crore rupees.]

⁵⁵[**Guidelines for approval under sub-clauses (iv) and (v) of clause (23C) of section 10.**

2C. (1) The prescribed authority under sub-clauses (iv) and (v) of clause (23C) of section 10 shall be the Chief Commissioner or Director General, to whom the application shall be made as provided in sub-rule (2).

(2) The application to be furnished under sub-clauses (iv) and (v) of clause (23C) of section 10 by a fund, trust or institution shall be in Form No. 56.

Explanation.—For the purposes of this rule, “Chief Commissioner or Director General” means the Chief Commissioner or Director General whom the Central Board of Direct Taxes may, authorise to act as prescribed authority⁵⁶ for the purposes of sub-clause (iv) or sub-clause (v) of clause (23C) of section 10 in relation to any fund or trust or institution.]

54. Inserted by the IT (Eighteenth Amdt.) Rules, 1998, w.e.f. 12-10-1998.

55. Substituted by the IT (Sixth Amdt.) Rules, 2007, w.e.f. 1-6-2007. Prior to its substitution, rule 2C, as inserted by the IT (Ninth Amdt.) Rules, 1989, w.e.f. 28-8-1989, read as under :

“2C. *Application under section 10(23) and under sub-clauses (iv) and (v) of section 10(23C).*—

(1) The prescribed authority under clause (23) and sub-clauses (iv) and (v) of clause (23C) of section 10 shall be the Director General (Income-tax Exemptions), to whom the applications shall be made as provided in sub-rules (2) and (3).

(2) The Form in which an application is to be furnished under clause (23) of section 10 by a sports association or institution shall be in Form No. 55.

(3) The Form of application to be furnished under sub-clauses (iv) and (v) of clause (23C) of section 10 by a fund, trust or institution shall be in Form No. 56.”

56. See Notification No. SO 851(E), dated 30-5-2007. For details, see Taxmann’s Master Guide to Income-tax Rules.

Guidelines for approval under sub-clauses (vi) and (via) of clause (23C) of section 10.

⁵⁷[2CA. (1) The prescribed authority under sub-clauses (vi) and (via) of clause (23C) of section 10 shall be the Chief Commissioner or Director General, to whom the application shall be made as provided in sub-rule (2).

57. Substituted by the IT (Seventeenth Amdt.) Rules, 2001, w.r.e.f. 3-4-2001. Earlier, rule 2CA was inserted by the IT (Eighteenth Amdt.) Rules, 1998, w.e.f. 12-10-1998 and later on amended by the IT (Third Amdt.) Rules, 2001, w.e.f. 3-4-2001.

A society or a trust or other similar body running educational institutions solely for educational purposes and having the overall object of not to make any profit can be regarded as 'other educational institution', even if some surplus arises from its activities - *Aditanar Educational Foundation v. Addl. CIT* [1997] 90 Taxman 528/224 ITR 310 (SC)/ *CIT v. A.M.M. Arunachalam Educational Society* [2000] 243 ITR 229 (Mad.). An institution existing solely for educational purposes cannot be denied exemption merely because it has derived income from activities like carrying on of business or renting out of properties or publication of text books, so long as such income is also applied on educational purposes - *CIT v. Kshatriya Girls Schools Managing Board* [1998] 101 Taxman 555 (Mad.)/ *Brahmin Education Society v. Asstt. CIT* [1996] 89 Taxman 434 (Ker.)/ *CIT v. Kikabi's Educational Trust* [2000] 242 ITR 697 (Mad.)/ *CIT v. Delhi Kannada Education Society* [2000] 113 Taxman 503 (Delhi). Institution must have carried on some educational activity during the relevant year; mere taking of steps for the establishment of the institution will not suffice - *CIT v. Devi Educational Institution* [1985] 153 ITR 571 (Mad.). Plain words of third proviso to section 10(23C) do not require that application of income by educational institution has to be in India but impartation of education must be in India if applicant desires exemption under section 10(23C)(vi); to make section with proviso workable, monitoring conditions in third proviso like application/utilization of income, pattern of investments to be made, etc., could be stipulated as conditions by prescribed authority subject to which approval could be granted and the compliance with terms and conditions stipulated by prescribed authority would be a matter of decision at time of assessment, as availability of exemption has to be evaluated every year in order to find out whether institution existed during relevant year solely for educational purposes and not for profit - *American Hotel & Lodging Association, Educational Institute v. CBDT* [2008] 170 Taxman 306/301 ITR 86 (SC). Institution existing outside India for educational purposes but not so existing in India is not entitled to exemption - *CIT v. Oxford University Press* [1996] 226 ITR 77/89 Taxman 353 (Bom.). Element of normal schooling where there are teachers and students must be present - *CIT v. Sorabji Nusserwanji Parekh* [1992] 201 ITR 935 (Guj.). Where primary object is merely to finance students for pursuing their education, the institution cannot be treated as 'other educational institution' - *CIT v. Saraswathi Poor Students Fund* [1984] 150 ITR 142 (Ker.). A museum cannot be said to exist solely for educational purposes - *CIT v. Maharaja Sawai Mansinghji Museum Trust* [1988] 169 ITR 379 (Raj.). A co-operative union having as its main object the imparting of education is entitled to exemption on its income - *Gujarat State Co-operative Union v. CIT* [1992] 195 ITR 279 (Guj.). A society having multiple objects including education but carrying on only educational activities ever since its inception cannot be denied exemption on the ground that there is a possibility of the society carrying on non-educational objects in the future - *Digember Jain Society for Child Welfare v. Director-General of Income-tax (Exemption)* [2009] 185 Taxman 255 (Delhi).

Hospital which is run on commercial lines and in which the managing director or director gets some advantage or exercises some patronage while running the hospital, cannot be denied exemption so long as the dominant purpose is a philanthropic one, and the profits are deployed in the same institution or in some other similar institution - *CIT v. Pulikkal Medical Foundation (P.) Ltd.* [1994] 210 ITR 299/73 Taxman 402 (Ker.). Exemption is admissible when surplus derived from one health centre is utilised on establishment of another health centre - *CIT v. Economic & Entrepreneurship Development Foundation* [1991] 59 Taxman 156/188 ITR 540 (Cal.). Actually admitting patients and providing them with treatment is not necessary; an institution with facilities for diagnosis and treatment of patients cannot be denied exemption on the ground that there is no facility for treating in-patients - *Mangilal Gotawat Charitable Trust v. CIT* [1984] 150 ITR 682 (Ker.).

(1A) The prescribed authority⁵⁸ under sub-clauses (vi) and (via) of clause (23C) of section 10 shall be the Central Board of Direct Taxes constituted under the Central Boards of Revenue Act, 1963 (54 of 1963) for applications received prior to 3rd day of April, 2001:

⁵⁹[**Provided** that in case of applications received prior to 3rd day of April, 2001 where no order has been passed granting approval or rejecting the application as on 31st day of May, 2007, the prescribed authority^{59a} under sub-clauses (vi) and (via) of clause (23C) of section 10 shall be the Chief Commissioner or Director General.]

(2) An application for approval shall be made in Form No. 56D by any university or other educational institution or any hospital or other medical institution referred to in sub-clause (vi) or sub-clause (via) of clause (23C) of section 10.

⁶⁰(3) The approval of the Central Board of Direct Taxes or Chief Commissioner or Director General, as the case may be, granted before the 1st day of December, 2006 shall at any one time have effect for a period not exceeding three assessment years.^{60a}]

⁶¹[*Explanation.*—For the purposes of this rule, “Chief Commissioner or Director General” means the Chief Commissioner or Director General whom the Central Board of Direct Taxes may, authorise to act as prescribed authority⁶², for the purposes of sub-clause (vi) or sub-clause (via) of clause (23C) of section 10, in relation to any university or other educational institution or any hospital or other medical institution.]

⁶³[**Guidelines for approval under clause (23F) of section 10.**

2D. (1) For the purposes of clause (23F) of section 10, the prescribed authority shall be the Director of Income-tax (Exemptions) having jurisdiction over the

58. In *Orissa Trust of Technical Education v. Chief CIT* [2008] 178 Taxman 363 (Ori.), it was held that prescribed authority for the years 1999-2001 was the CBDT and thereafter such power of approval came to be vested in the Chief Commissioner. In terms of rule 2CA it is the ‘prescribed authority’ alone which could deal with the application for approval and no other. No amount of waiver or consent can confer jurisdiction on a Court which it inherently lacks or where none exists. Lack of jurisdiction strikes at the very root of exercise of statutory powers and vitiates the proceeding themselves. Thus, merely because the assessee filed application for approval for period 1999-2001 to the Chief Commissioner and not to CBDT this fact of making such applications by itself could not and would not vest any authority of law with the Chief Commissioner to deal with such application. The conduct of the assessee in making of an application before an authority, who otherwise lacks jurisdiction cannot in law amount to vesting such an authority, with jurisdiction to deal with the same and further in view of the law stated above in such a case Chief Commissioner was also wrong in passing a common order for assessment years 1998-99 to 2005-06. (See also *Maharashtra Academy of Engineering & Educational Research v. Director General of Income-tax* [2009] 226 CTR (Bom.) 408)

59. Inserted by the IT (Fifth Amdt.) Rules, 2007, w.e.f. 1-6-2007.

59a. See Notification No. SO 852(E), dated 30-5-2007. For details, See Taxmann’s Master Guide to Income-tax Rules.

60. Substituted by the IT (Fourteenth Amdt.) Rules, 2006, w.e.f. 24-11-2006. Prior to its substitution, it read as under :

“(3) The approval of the Central Board of Direct Taxes or Chief Commissioner or Director General, as the case may be, shall at any one time have effect for a period not exceeding three assessment years.”

60a. See also Circular No. 7/2010, dated 27-10-2010. For details, see Taxmann’s Master Guide to Income-tax Rules.

61. Substituted by the IT (Fifth Amdt.) Rules, 2007, w.e.f. 1-6-2007. Prior to its substitution, *Explanation* read as under :

‘*Explanation.*—For the purposes of this rule, “Chief Commissioner or Director General” means the Chief Commissioner or Director General to whom the Assessing Officer having jurisdiction to assess the university or other educational institutions or any hospital or other medical institutions referred to in sub-clause (vi) and sub-clause (via) of clause (23C) of section 10 of the Act is subordinate.’

62. See Notification No. SO 852(E), dated 30-5-2007. For details, see Taxmann’s Master Guide to Income-tax Rules.

63. Inserted by the IT (Eleventh Amdt.) Rules, 1995, w.e.f. 18-7-1995.

venture capital fund or the venture capital company who makes application for approval under sub-rule (2).

(2) An application for approval shall be made in Form No. 56A by a venture capital fund or a venture capital company to the Director of Income-tax (Exemptions) referred to in sub-rule (1).

(3) Every application under sub-rule (2) may be made in any previous year in which any income by way of dividend 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 shall not be included in computing the total income of such venture capital fund or venture capital company.

(4) Every application for approval under sub-rule (2) shall be accompanied by the following documents, namely :—

- (a) a copy of trust deed or certificate of incorporation under the Companies Act, 1956 (1 of 1956);
- (b) balance sheets and profit and loss account for three previous years immediately preceding the previous year in which the application is made;
- (c) Forms 56B and 56C duly filled in and signed by the applicant; and
- (d) a copy of the certificate of registration issued by the Securities and Exchange Board of India.

(5) The Director of Income-tax (Exemptions) shall approve the venture capital fund or the venture capital company, as the case may be, subject to the following conditions, namely :—

- (a) the venture capital fund or the venture capital company, as the case may be, is registered with the Securities and Exchange Board of India established under section 3 of the Securities and Exchange Board of India Act, 1992 (15 of 1992);
- (b) ⁶⁴[* * *]
- (c) ⁶⁴[* * *]

64. Clauses (b) and (c) omitted by the IT (Twenty-sixth* Amdt.) Rules, 1998, w.e.f. 1-4-1999. Prior to their omission, clauses (b) and (c), as inserted by the IT (Eleventh Amdt.) Rules, 1995, w.e.f. 18-7-1995, read as under :

“(b) every venture capital fund invests an amount not less than eighty per cent of its total monies (hereinafter referred to as such monies) raised for investment by way of acquiring equity shares of the venture capital undertakings in the following manner, namely:—

- (i) twenty per cent or more of such monies shall be invested during or before the end of the previous year in which the application is made under sub-rule (3) by way of acquiring equity shares of the venture capital undertakings;
- (ii) fifty per cent or more of such monies [including the investments referred to in sub-clause (i) above] shall be invested, during or before the end of the previous year immediately succeeding the previous year in which investment of twenty per cent referred to in sub-clause (i) has been made, by way of acquiring equity shares of the venture capital undertakings;
- (iii) eighty per cent or more of such monies [including the investments, referred to in sub-clause (ii) above] shall be invested, during or before the end of the previous year immediately succeeding the previous year in which fifty per cent investment referred to in sub-clause (ii) has been made, by way of acquiring equity shares of the venture capital undertakings;

(Contd. on p. 1.28)

- (d) a venture capital fund or a venture capital company, as the case may be, shall not invest more than ⁶⁵[twenty] per cent of its total monies raised or total paid-up share capital in one venture capital undertaking;
- (e) a venture capital fund or a venture capital company, as the case may be, shall not make investment of more than forty per cent in the equity capital of one venture capital undertaking;
- (f) every venture capital fund and venture capital company, shall maintain books of account and get such books audited by an accountant, as defined in *Explanation* to sub-section (2) of section 288 and furnish the report of such audit duly signed and verified by such accountant to the Director of Income-tax (Exemptions) before the due date of filing of the return under sub-section (1) of section 139.

(6) The Director of Income-tax (Exemptions) shall pass an order in writing granting approval or refusing approval to the venture capital fund or venture capital company, as the case may be :

Provided that the Director of Income-tax (Exemptions) shall not refuse the approval except in concurrence with the Director-General of Income-tax (Exemptions):

Provided further that every venture capital fund or venture capital company, as the case may be, shall be given an opportunity of being heard before passing an order under this rule.

(7) The Director of Income-tax (Exemptions) shall withdraw the approval granted under sub-rule (6) in the following circumstances, namely :—

- (a) if the venture capital fund or the venture capital company—
 - (i) fails to make investments in the manner specified in sub-rule (5);
 - (ii) invests more than ⁶⁵[twenty] per cent of the monies raised by a venture capital fund or ⁶⁵[twenty] per cent of paid-up share capital of the venture capital company, as the case may be, in one venture capital undertaking;
 - (iii) makes an investment of more than forty per cent in the equity capital in one venture capital undertaking;

(Contd. from p. 1.27)

- (c) every venture capital company invests an amount not less than eighty per cent of its total paid-up capital (hereinafter referred to as such capital) by way of acquiring equity shares of the venture capital undertakings in the following manner, namely :—
 - (i) twenty per cent or more of such capital shall be invested, during or before the end of the previous year in which the application is made under sub-rule (3), by way of acquiring equity shares of the venture capital undertakings;
 - (ii) fifty per cent or more of such capital [including the investments referred to in sub-clause (i) above] shall be invested, during or before the end of the previous year immediately succeeding the previous year in which investment of twenty per cent referred to in sub-clause (i) above has been made, by way of acquiring equity shares of the venture capital undertakings;
 - (iii) eighty per cent or more of such capital [including the investments referred to in sub-clause (ii) above] shall be invested, during or before the end of the previous year in which fifty per cent investment referred to in sub-clause (ii) has been made, by way of acquiring equity shares of the venture capital undertakings;*

*Should be (Twenty-fifth Amdt.) Rules, 1998.

65. Substituted for "five" by the IT (Sixth Amdt.) Rules, 1997, w.e.f. 28-4-1997.

- (iv) fails to maintain books of account and get such accounts audited by an accountant or fails to file the audit report required in clause (f) of sub-rule (5);
- (v) violates the provisions of the Act or rules made thereunder;
- (b) if the certificate of registration granted under section 12 of the Securities and Exchange Board of India Act, 1992 (15 of 1992), to a venture capital fund or a venture capital company is suspended or cancelled by the Securities and Exchange Board of India.]

⁶⁶[**Guidelines for approval under clause (23FA) of section 10.**

2DA. (1) An application for approval shall be made in Form No. 56AA by a venture capital fund or a venture capital company to the Central Government.

(2) Every application under sub-rule (1) may be made in any previous year in which any income by way of dividend 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 shall not be included in computing the total income of such venture capital fund or venture capital company.

(3) Every application for approval under sub-rule (1) shall be accompanied by the following documents, namely :—

- (a) a copy of the trust deed registered under the provision of the Registration Act, 1908 or a certificate of incorporation under the Companies Act, 1956 (1 of 1956);
- (b) balance sheets and profit and loss accounts for three previous years immediately preceding the previous year in which the application is made;
- (c) Forms 56BA and 56CA duly filled in and signed by the applicant; and
- (d) a copy of the certificate of registration issued by the Securities and Exchange Board of India under sub-section (1) of section 12 of the Securities and Exchange Board of India Act, 1992 (15 of 1992).

(4) The Central Government may approve the venture capital fund or the venture capital company, as the case may be, subject to the following conditions, namely :—

- (a) a venture capital fund or a venture capital company, as the case may be, is registered with the Securities and Exchange Board of India established under section 3 of the Securities and Exchange Board of India Act, 1992 (15 of 1992);
- (b) a venture capital fund or a venture capital company, as the case may be, shall not invest more than twenty-five per cent of its total monies raised or total paid-up share capital in one venture capital undertaking;
- (c) every venture capital fund and venture capital company, shall maintain books of account and get such books audited by an accountant, as defined in *Explanation* to sub-section (2) of section 288 of the Act and, furnish the report of such audit duly signed and verified by such accountant to the Central Government before the due date of filing of the return under sub-section (1) of section 139 of the Act.

(5) The Central Government may pass an order in writing granting approval or refusing approval to the venture capital fund or venture capital company, as the case may be :

⁶⁶. Inserted by the IT (Thirty-fourth Amdt.) Rules, 1999, w.e.f. 27-12-1999.

Provided that no order refusing the approval shall be passed unless an opportunity of being heard has been given to the venture capital fund or the venture capital company.

(6) The approval of the Central Government under sub-rule (5) shall at any one time have effect for such assessment year or years, not exceeding three assessment years.

(7) The Central Government shall withdraw the approval granted under sub-rule (5) in the following circumstances :—

- (a) if the venture capital fund or the venture capital company—
 - (i) fails to make investments in the manner specified in sub-rule (4);
 - (ii) invests more than twenty-five per cent of the monies raised by a venture capital fund or twenty-five per cent of paid-up share capital of the venture capital company, as the case may be, in one venture capital undertaking;
 - (iii) fails to maintain books of account and get such accounts audited by an accountant or fails to file the audit report required in clause (d) of sub-rule (4);
 - (iv) violates the provisions of the Act or rules made thereunder;
- (b) if the certificate of registration granted under section 12 of the Securities and Exchange Board of India Act, 1992 (15 of 1992), to a venture capital fund or a venture capital company is suspended or cancelled by the Securities and Exchange Board of India.]

⁶⁷[**Guidelines for approval under clause (23G) of section 10**⁶⁸.

2E. (1) An application for approval shall be made on or after the 1st day of June, 1998 in Form No. 56E by an enterprise to the Central Government.

(2) Every application for approval made under sub-rule (1) shall be accompanied by the following documents, namely :—

- (a) a copy of certificate of incorporation under the Companies Act, 1956 (1 of 1956) or a copy of the document evidencing the constitution of the enterprise and its legal status;
- (b) a copy of the project report or agreement in respect of the eligible business duly approved by the Central Government or any State Government or any local authority or any other statutory body, as the case may be;
- (c) balance sheets and profit and loss accounts for the three previous years immediately preceding the previous year in which the application has been made and also for the relevant part of the previous year in which the application has been made :

Provided that an application made under sub-rule (1) may be accompanied by the balance sheets and profit and loss accounts for less than three previous years

67. Substituted by the IT (Sixth Amdt.) Rules, 2004, w.e.f. 12-1-2004. Earlier, rule 2E was inserted by the IT (Eighteenth Amdt.) Rules, 1998, w.e.f. 12-10-1998.

68. Section 10(23G) was omitted by the Finance Act, 2006, w.e.f. 1-4-2007.

where an enterprise has been formed at any time during the three previous years immediately preceding the previous year in which the application has been made and also for the relevant part of the previous year in which the application has been made.

(3) The Central Government shall approve an enterprise for the purposes of clause (23G) of section 10, if such enterprise is wholly engaged in the eligible business.

(4) The Central Government may, before approving an enterprise, call for such documents (including audited annual accounts) or information from the enterprise, as it thinks necessary in order to satisfy itself that such enterprise is wholly engaged in the eligible business and that Government may also make such enquiries as it may deem necessary in this behalf.

(5) The Central Government shall pass an order in writing while granting approval or refusing approval to the enterprise :

Provided that no order refusing the approval shall be passed unless an opportunity of being heard has been given to the enterprise.

(6) Every enterprise approved under sub-rule (5) shall maintain books of account and get such books audited by an accountant, as defined in *Explanation* to sub-section (2) of section 288 and furnish the report of such audit duly signed and verified by such accountant to the Chief Commissioner of Income-tax under whose jurisdiction it is assessed, before the due date of filing of the return under sub-section (1) of section 139.

(7) Where the enterprise,—

- (a) ceases to carry on the eligible business; or
- (b) fails to maintain books of account and get such accounts audited by an accountant as required by sub-rule (6); or
- (c) fails to furnish the audit report as required by sub-rule (6),

the Chief Commissioner of Income-tax shall, after making such enquiries as he may deem necessary, furnish a report on the circumstances referred to in clauses (a), (b) and (c) to the Central Government, within six months from the due date of filing of return under sub-section (1) of section 139.

(8) The Central Government, on being satisfied that any or all of the circumstances referred to in clauses (a), (b) and (c) of sub-rule (7) exist, shall withdraw the approval granted under sub-rule (5) :

Provided that no order withdrawing the approval shall be passed unless an opportunity of being heard has been given to the enterprise.

Explanation : For the purposes of this rule,—

- (a) the expression “enterprise” means any enterprise wholly engaged in the eligible business;
- (b) the expression “eligible business” means the business referred to in sub-section (4) of section 80-IA or a housing project referred to in sub-section (10) of section 80-IB and which fulfils the conditions specified in the said sub-sections or a hotel project or a hospital project as defined in clauses (g) and (h) of *Explanation 1* to clause (23G) of section 10.]

⁶⁹[Valuation of perquisites⁷⁰.

⁷¹3. For the purpose of computing the income chargeable under the head “Salaries”, the value of perquisites provided by the employer directly or indirectly to the assessee (hereinafter referred to as employee) or to any member of his household by reason of his employment shall be determined in accordance with the following sub-rules, namely:—

⁷²(1) The value of residential accommodation provided by the employer during the previous year shall be determined on the basis provided in the Table below (See page 1.36) :

69. Substituted by the IT (Thirteenth Amdt.) Rules, 2009, w.r.e.f. 1-4-2009 (as corrected by Notification No. 2/2010 [F. No. 142/25/2009-SO(TPL)], dated 12-1-2010). Prior to its substitution, rule 3, as amended by the IT (Fourteenth Amdt.) Rules, 2007, w.e.f. 1-4-2008/w.r.e.f. 1-4-2006, IT (Twenty-second Amdt.) Rules, 2001, w.r.e.f. 1-4-2001, IT (Seventeenth Amdt.) Rules, 2002, w.e.f. 1-8-2002, IT (Nineteenth Amdt.) Rules, 2002, w.r.e.f. 1-4-2001, IT (Second Amdt.) Rules, 2002, w.r.e.f. 1-4-2001, IT (Third Amdt.) Rules, 2003, w.r.e.f. 1-4-2002, IT (Thirteenth Amdt.) Rules, 2004, w.r.e.f. 1-10-2004, IT (First Amdt.) Rules, 2004, w.e.f. 1-4-2004 and IT (Seventh Amdt.) Rules, 2005, w.e.f. 1-4-2005, read as under :—

³. *Valuation of perquisites.*—For the purpose of computing the income chargeable under the head “Salaries”, the value of perquisites provided by the employer directly or indirectly to the assessee (hereinafter referred to as employee) or to any member of his household by reason of his employment shall be determined in accordance with the following sub-rules, namely:—

(1) The value of residential accommodation provided by the employer during the previous year shall be determined on the basis provided in the Table below:

TABLE I

Sl. No.	Circumstances	Where accommodation is unfurnished	Where accommodation is furnished
(1)	(2)	(3)	(4)
(1)	Where the accommodation is provided by the Central Government or any State Government to the employees either holding office or post in connection with the affairs of the Union or of such State or serving with any body or undertaking under the control of such Government on deputation.	License fee determined by the Central Government or any State Government in respect of accommodation in accordance with the rules framed by such Government as reduced by the rent actually paid by the employee.	The value of perquisite as determined under column (3) and increased by 10% per annum of the cost of furniture (including television sets, radio sets, refrigerators, other household appliances, air-conditioning plant or equipment) or if such furniture is hired from a third party, the actual hire charges payable for the same as reduced by any charges paid or payable for the same by the employee during the previous year.
(2)	Where the accommodation is provided by any other employer and— (a) where the accommodation is owned by the employer, or	(i) 15% of salary in cities having population exceeding 25 lakhs as per 2001 census; (ii) 10% of salary in cities having population exceeding 10 lakhs but not exceeding 25 lakhs as per 2001 census; (iii) 7.5% of salary in other areas,	The value of perquisite as determined under column (3) and increased by 10% per annum of the cost of furniture (including television sets, radio sets, refrigerators, other household appliances, air-conditioning plant or equipment or other similar appliances or gadgets) or if such

(Contd. on p. 1.33)

(Contd. from p. 1.32)

Sl. No.	Circumstances	Where accommodation is unfurnished	Where accommodation is furnished
(1)	(2)	(3)	(4)
	(b) where the accommodation is taken on lease or rent by the employer.	in respect of the period during which the said accommodation was occupied by the employee during the previous year as reduced by the rent, if any, actually paid by the employee. Actual amount of lease rental paid or payable by the employer or 15% of salary whichever is lower as reduced by the rent, if any, actually paid by the employee.	furniture is hired from a third party, by the actual hire charges payable for the same as reduced by any charges paid or payable for the same by the employee during the previous year. The value of perquisite as determined under column (3) and increased by 10% per annum of the cost of furniture (including television sets, radio sets, refrigerators, other household appliances, air-conditioning plant or equipment or other similar appliances or gadgets) or if such furniture is hired from a third party, by the actual hire charges payable for the same as reduced by any charges paid or payable for the same by the employee during the previous year.
(3)	Where the accommodation is provided by the employer specified in serial number (1) or (2) in a hotel (except where the employee is provided such accommodation for a period not exceeding in aggregate fifteen days on his transfer from one place to another)	Not applicable	24% of salary paid or payable for the previous year or the actual charges paid or payable to such hotel, which is lower, for the period during which such accommodation is provided as reduced by the rent, if any, actually paid or payable by the employee :

Provided that nothing contained in this sub-rule shall apply to any accommodation provided to an employee working at a mining site or an on-shore oil exploration site or a project execution site, or a dam site or a power generation site or an off-shore site which,—

- (i) being of a temporary nature and having plinth area not exceeding 800 square feet, is located not less than eight kilometers away from the local limits of any municipality or a cantonment board; or
- (ii) is located in a remote area:

Provided further that where on account of his transfer from one place to another, the employee is provided with accommodation at the new place of posting while retaining the accommodation at the other place, the value of perquisite shall be determined with reference to only one such accommodation which has the lower value with reference to the Table above for a period not exceeding 90 days and thereafter the value of perquisite shall be charged for both such accommodations in accordance with the Table.

(2) (A) The value of perquisite provided by way of use of motor car to an employee by an employer, who is not liable to pay fringe benefit tax under Chapter XII-H of the Act, shall be determined in accordance with the following Table, namely :—

(Contd. on p. 1.34)

(Contd. from p. 1.33)

TABLE II
VALUE OF PERQUISITE PER CALENDAR MONTH

Sl. No.	Circumstances	Where cubic capacity of engine does not exceed 1.6 litres	Where cubic capacity of engine exceeds 1.6 litres
(1)	(2)	(3)	(4)
(1)	<p>Where the motor car is owned or hired by the employer and—</p> <p>(a) is used wholly and exclusively in the performance of his official duties;</p> <p>(b) is used exclusively for the private or personal purposes of the employee or any member of his household and the running and maintenance expenses are met or reimbursed by the employer;</p> <p>(c) is used partly in the performance of duties and partly for private or personal purposes of his own or any member of his household and</p> <p>(i) the expenses on maintenance and running are met or reimbursed by the employer,</p> <p>(ii) the expenses on running and maintenance for such private or personal use are fully met by the assessee.</p>	<p>No value: Provided that the documents specified in clause (B) of this sub-rule are maintained by the employer.</p> <p>Actual amount of expenditure incurred by the employer on the running and maintenance of motor car during the relevant previous year including remuneration, if any, paid by the employer to the chauffeur as increased by the amount representing normal wear and tear of the motor car and as reduced by any amount charged from the employee for such use.</p> <p>Rs. 1,200 (<i>plus</i> Rs. 600, if chauffeur is also provided to run the motor car)</p> <p>Rs. 400 (<i>plus</i> Rs. 600, if chauffeur is provided by the employer to run the motor car)</p>	<p>No value: Provided that the documents specified in clause (B) of this sub-rule are maintained by the employer.</p> <p>Actual amount of expenditure incurred by the employer on the running and maintenance of motor car during the relevant previous year including remuneration, if any, paid by the employer to the chauffeur as increased by the amount representing normal wear and tear of the motor car and as reduced by any amount charged from the employee for such use.</p> <p>Rs. 1,600 (<i>plus</i> Rs. 600, if chauffeur is also provided to run the motor car)</p> <p>Rs. 600 (<i>plus</i> Rs. 600, if chauffeur is also provided to run the motor car)</p>
(2)	<p>Where the employee owns a motor car but the actual running and maintenance charges (including remuneration of the chauffeur, if any) are met or reimbursed to him by the employer and</p> <p>(i) such reimbursement is for the use of the vehicle wholly and exclusively for official purposes,</p>	<p>No value: Provided that the documents specified in clause (B) of this sub-rule are maintained by the employer.</p>	<p>No value: Provided that the documents specified in clause (B) of this sub-rule are maintained by the employer.</p>

(Contd. on p. 1.35)

(Contd. from p. 1.34)

Sl. No.	Circumstances	Where cubic capacity of engine does not exceed 1.6 litres	Where cubic capacity of engine exceeds 1.6 litres
(1)	(2)	(3)	(4)
(3)	<p>(ii) such reimbursement is for the use of the vehicle partly for official purposes and partly for personal or private purposes of the employee or any member of his household.</p> <p>Where the employee owns any other automotive conveyance but the actual running and maintenance charges are met or reimbursed to him by the employer and</p> <p>(i) such reimbursement is for the use of the vehicle wholly and exclusively for official purposes,</p> <p>(ii) such reimbursement is for the use of the vehicle partly for official purposes and partly for personal or private purposes of the employee.</p>	<p>Subject to the provisions of clause (B) of this sub-rule, the actual amount of expenditure incurred by the employer as reduced by the amount specified in Sl. No. (1)(c)(i) above.</p> <p>No value: Provided that the documents specified in clause (B) of this sub-rule are maintained by the employer.</p> <p>Subject to the provisions of clause (B) of this sub-rule, the actual amount of expenditure incurred by the employer as reduced by an amount of Rs. 600:</p>	<p>Subject to the provisions contained in clause (B) of this sub-rule, the actual amount of expenditure incurred by the employer as reduced by the amount specified in Sl. No. (1)(c)(i) above.</p> <p>Not applicable</p>

Provided that where one or more motor-cars are owned or hired by the employer and the employee or any member of his household are allowed the use of such motor-car or all or any of such motor-cars (otherwise than wholly and exclusively in the performance of his duties), the value of perquisite shall be the amount calculated in respect of one car in accordance with Sl. No. (1)(c)(i) of Table II as if the employee had been provided one motor-car for use partly in the performance of his duties and partly for his private or personal purposes and the amount calculated in respect of the other car or cars in accordance with Sl. No. (1)(b) of Table II as if he had been provided with such car or cars exclusively for his private or personal purposes.

(B) Where the employer or the employee claims that the motor-car is used wholly and exclusively in the performance of official duty or that the actual expenses on the running and maintenance of the motor-car owned by the employee for official purposes is more than the amounts deductible in Sl. No. 2(ii) or 3(ii) of Table II, he may claim a higher amount attributable to such official use and the value of perquisite in such a case shall be the actual amount of charges met or reimbursed by the employer as reduced by such higher amount attributable to official use of the vehicle provided that the following conditions are fulfilled:—

- (a) the employer has maintained complete details of journey undertaken for official purpose which may include date of journey, destination, mileage, and the amount of expenditure incurred thereon;
- (b) the employer gives a certificate to the effect that the expenditure was incurred wholly and exclusively for the performance of official duties.

(Contd. on p. 1.36)

TABLE I

<i>Sl. No.</i>	<i>Circumstances</i>	<i>Where accommodation is unfurnished</i>	<i>Where accommodation is furnished</i>
<i>(1)</i>	<i>(2)</i>	<i>(3)</i>	<i>(4)</i>
(1)	Where the accommodation is provided by the Central Government or any State Government to the employees either holding office or post in connection with the affairs of the Union or of such State.	License fee determined by the Central Government or any State Government in respect of accommodation in accordance with the rules framed by such Government as reduced by the rent actually paid by the employee.	The value of perquisite as determined under column (3) and increased by 10% per annum of the cost of furniture (including television sets, radio sets, refrigerators, other household appliances, air-conditioning plant or equipment) or if such furniture is hired from a third party, the actual hire charges payable for the same as reduced by any charges paid or payable for the same by the employee during the previous year.
(2)	Where the accommodation is provided by any other employer and— (a) where the accommodation is owned by the employer, or	(i) 15% of salary in cities having population exceeding 25 lakhs as per 2001 census; (ii) 10% of salary in cities having population exceeding 10 lakhs but not exceeding 25 lakhs as per 2001 census; (iii) 7.5% of salary in other areas,	The value of perquisites as determined under column (3) and increased by 10% per annum of the cost of furniture (including television sets, refrigerators, other household appliances, air-conditioning plant or equipment or other similar appliances or gadgets) or if such furniture is hired from a third

(Contd. from p. 1.35)

Explanation.—For the purposes of this sub-rule, the normal wear and tear of a motor-car shall be taken at 10% per annum of the actual cost of the motor-car or cars.

(3) The value of benefit to the employee or any member of his household resulting from the provision by the employer of services of a sweeper, a gardener, a watchman or a personal attendant, shall be the actual cost to the employer. The actual cost in such a case shall be the total amount of salary paid or payable by the employer or any other person on his behalf for such services as reduced by any amount paid by the employee for such services.

(4) The value of the benefit to the employee resulting from the supply of gas, electric energy or water for his household consumption shall be determined as the sum equal to the amount paid on that account by the employer to the agency supplying the gas, electric energy or water. Where such supply is made from resources owned by the employer, without purchasing them from any other outside agency, the value of perquisite would be the manufacturing cost per unit incurred by the employer. Where the employee is paying any amount in respect of such services, the amount so paid shall be deducted from the value so arrived at.

(Contd. on p. 1.37)

<i>Sl. No.</i>	<i>Circumstances</i>	<i>Where accommodation is unfurnished</i>	<i>Where accommodation is furnished</i>
<i>(1)</i>	<i>(2)</i>	<i>(3)</i>	<i>(4)</i>
	(b) where the accommodation is taken on lease or rent by the employer.	<p>in respect of the period during which the said accommodation was occupied by the employee during the previous year as reduced by the rent, if any, actually paid by the employee.</p> <p>Actual amount of lease rental paid or payable by the employer or 15% of salary whichever is lower as reduced by the rent, if any, actually paid by the employee.</p>	<p>party, by the actual hire charges payable for the same as reduced by any charges paid or payable for the same by the employee during the previous year.</p> <p>The value of perquisite as determined under column (3) and increased by 10% per annum of the cost of furniture (including television sets, radio sets, refrigerators, other household appliances, air-conditioning plant or equipment or other similar appliances or gadgets) or if such furniture is hired from a third party, by the actual hire charges payable for the same as reduced by any charges paid or payable for the same by the employee during the previous year.</p>
(3)	Where the accommodation is provided by the employer specified in serial number (1) or (2) in a hotel (except where the employee is provided such accommodation for a period not exceeding in aggregate fifteen days on his transfer from one place to another).	Not applicable.	24% of salary paid or payable for the previous year or the actual charges paid or payable to such hotel, which is lower, for the period during which such accommodation is provided as reduced by the rent, if any, actually paid or payable by the employee:

(Contd. from p. 1.36)

(5) The value of benefit to the employee resulting from the provision of free or concessional educational facilities for any member of his household shall be determined as the sum equal to the amount of expenditure incurred by the employer in that behalf or where the educational institution is itself maintained and owned by the employer or where free educational facilities for such member of employees' household are allowed in any other educational institution by reason of his being in employment of that employer, the value of the perquisite to the employee shall be determined with reference to the cost of such education in a similar institution in or near the locality. Where any amount is paid or recovered from the employee on that account, the value of benefit shall be reduced by the amount so paid or recovered:

(Contd. on p. 1.38)

Provided that nothing contained in this sub-rule shall apply to any accommodation provided to an employee working at a mining site or an on-shore oil exploration site or a project execution site, or a dam site or a power generation site or an off-shore site—

- (i) which, being of a temporary nature and having plinth area not exceeding 800 square feet, is located not less than eight kilometres away from the local limits of any municipality or a cantonment board; or
- (ii) which is located in a remote area:

Provided further that where on account of his transfer from one place to another, the employee is provided with accommodation at the new place of posting while retaining the accommodation at the other place, the value of perquisite shall be determined with reference to only one such accommodation which has the lower value with reference to the Table above for a period not exceeding 90 days and thereafter the value of perquisite shall be charged for both such accommodations in accordance with the Table.

Explanation.—For the purposes of this sub-rule, where the accommodation is provided by the Central Government or any State Government to an employee who is serving on deputation with any body or undertaking under the control of such Government,—

- (i) the employer of such an employee shall be deemed to be that body or undertaking where the employee is serving on deputation; and
- (ii) the value of perquisite of such an accommodation shall be the amount calculated in accordance with Sl. No. (2)(a) of Table I, as if the accommodation is owned by the employer.

(2)(A) The value of perquisite by way of use of motor car to an employee by an employer shall be determined in accordance with the following Table, namely:—

(Contd. from p. 1.37)

Provided that where the educational institution itself is maintained and owned by the employer and free educational facilities are provided to the children of the employee or where such free educational facilities are provided in any institution by reason of his being in employment of that employer, nothing contained in this sub-rule shall apply if the cost of such education or the value of such benefit per child does not exceed Rs. 1,000 p.m.

(6) The value of any benefit or amenity resulting from the provision by an employer, who is not liable to pay fringe benefit tax under Chapter XII-H of the Income-tax Act and is engaged in the carriage of passengers or goods to any employee or to any member of his household for personal or private journey free of cost or at concessional fare, in any conveyance owned, leased or made available by any other arrangement by such employer for the purpose of transport of passengers or goods shall be taken to be the value at which such benefit or amenity is offered by such employer to the public as reduced by the amount, if any, paid by or recovered from the employee for such benefit or amenity :

Provided that nothing contained in this sub-rule shall apply to the employees of an airline or the railways.

(7) In terms of provisions contained in sub-clause (vi) of clause (2) of section 17, the following other fringe benefits or amenities are hereby prescribed and the value thereof shall be determined in the manner provided hereunder:

(Contd. on p. 1.39)

TABLE II
VALUE OF PERQUISITE PER CALENDAR MONTH

Sl. No.	Circumstances	Where cubic capacity of engine does not exceed 1.6 litres	Where cubic capacity of engine exceeds 1.6 litres
(1)	(2)	(3)	(4)
(1)	<p>Where the motor car is owned or hired by the employer and—</p> <p>(a) is used wholly and exclusively in the performance of his official duties;</p> <p>(b) is used exclusively for the private or personal purposes of the employee or any member of his household and the running and maintenance expenses are met or reimbursed by the employer;</p> <p>(c) is used partly in the performance of duties and partly for private or personal</p>	<p>No value: Provided that the documents specified in clause (B) of this sub-rule are maintained by the employer.</p> <p>Actual amount of expenditure incurred by the employer on the running and maintenance of motor car during the relevant previous year including remuneration, if any, paid by the employer to the chauffeur as increased by the amount representing normal wear and tear of the motor car and as reduced by any amount charged from the employee for such use.</p>	<p>No value: Provided that the documents specified in clause (B) of this sub-rule are maintained by the employer.</p> <p>Actual amount of expenditure incurred by the employer on the running and maintenance of motor car during the relevant previous year including remuneration, if any, paid by the employer to the chauffeur as increased by the amount representing normal wear and tear of the motor car and as reduced by any amount charged from the employee for such use.</p>

(Contd. from p. 1.38)

- (i) The value of the benefit to the assessee resulting from the provision of interest-free or concessional loan for any purpose made available to the employee or any member of his household during the relevant previous year by the employer or any person on his behalf shall be determined as the sum equal to the interest computed at the rate charged per annum by the State Bank of India, constituted under the State Bank of India Act, 1955 (23 of 1955), as on the 1st day of the relevant previous year in respect of loans for the same purpose advanced by it on the maximum outstanding monthly balance as reduced by the interest, if any, actually paid by him or any such member of his household.

However, no value would be charged if such loans are made available for medical treatment in respect of diseases specified in rule 3A of these Rules or where the amount of loans are petty not exceeding in the aggregate Rs. 20,000 :

Provided that where the benefit relates to the loans made available for medical treatment referred to above, the exemption so provided shall not apply to so much of the loan as has been reimbursed to the employee under any medical insurance scheme.

(Contd. on p. 1.40)

Sl. No.	Circumstances	Where cubic capacity of engine does not exceed 1.6 litres	Where cubic capacity of engine exceeds 1.6 litres
(1)	(2)	(3)	(4)
	<p>purposes of his own or any member of his household and—</p> <p>(i) the expenses on maintenance and running are met or reimbursed by the employer;</p> <p>(ii) the expenses on running and maintenance for private or personal use are fully met by the assessee.</p>	<p>Rs. 1,800 (plus Rs. 900, if chauffeur is also provided to run the motor car)</p> <p>Rs. 600 (plus Rs. 900, if chauffeur is also provided by the employer to run the motor car)</p>	<p>Rs. 2,400 (plus Rs. 900, if chauffeur is also provided to run the motor car)</p> <p>Rs. 900 (plus Rs. 900, if chauffeur is also provided to run the motor car)</p>
(2)	<p>Where the employee owns a motor car but the actual running and maintenance charges (including remuneration of the chauffeur, if any) are met or reimbursed to him by the employer and—</p> <p>(i) such reimbursement is for the use of the vehicle wholly and exclusively for official purposes;</p>	<p>No value:</p> <p>Provided that the documents specified in clause (B) of this sub-rule are maintained by the employer.</p>	<p>No value:</p> <p>Provided that the documents specified in clause (B) of this sub-rule are maintained by the employer.</p>

(Contd. from p. 1.39)

- (ii) The value of travelling, touring, accommodation and any other expenses paid for or borne or reimbursed by the employer, who is not liable to pay fringe benefit tax under Chapter XII-H of the Act, for any holiday availed of by the employee or any member of his household, other than concession or assistance referred to in rule 2B of these rules, shall be determined as the sum equal to the amount of the expenditure incurred by such employer in that behalf. Where such facility is maintained by the employer, and is not available uniformly to all employees, the value of benefit shall be taken to be the value at which such facilities are offered by other agencies to the public. Where the employee is on official tour and the expenses are incurred in respect of any member of his household accompanying him, the amount of expenditure so incurred shall also be a fringe benefit or amenity. However, where any official tour is extended as a vacation, the value of such fringe benefit shall be limited to the expenses incurred in relation to such extended period of stay or vacation. The amount so determined shall be reduced by the amount, if any, paid or recovered from the employee for such benefit or amenity.

(Contd. on p. 1.41)

Sl. No.	Circumstances	Where cubic capacity of engine does not exceed 1.6 litres	Where cubic capacity of engine exceeds 1.6 litres
(1)	(2)	(3)	(4)
(3)	<p>(ii) such reimbursement is for the use of the vehicle partly for official purposes and partly for personal or private purposes of the employee or any member of his household.</p> <p>Where the employee owns any other automotive conveyance but the actual running and maintenance charges are met or reimbursed to him by the employer and</p> <p>(i) such reimbursement is for the use of the vehicle wholly and exclusively for official purposes;</p> <p>(ii) such reimbursement is for the use of vehicle partly for official purposes and partly for personal or private purposes of the employee.</p>	<p>Subject to the provisions of clause (B) of this sub-rule, the actual amount of expenditure incurred by the employer as reduced by the amount specified in Sl. No. (1)(c)(i) above.</p> <p>No value :</p> <p>Provided that the documents specified in clause (B) of this sub-rule are maintained by the employer.</p> <p>Subject to the provisions of clause (B) of this sub-rule, the actual amount of expenditure incurred by the employer as reduced by the amount of Rs. 900.</p>	<p>Subject to the provisions of clause (B) of this sub-rule, the actual amount of expenditure incurred by the employer as reduced by the amount specified in Sl. No. (1)(c)(i) above.</p> <p>Not applicable :</p>

(Contd. from p. 1.40)

(iii) The value of free food and non-alcoholic beverages provided by the employer, who is not liable to pay fringe benefit tax under Chapter XII-H of the Act, to an employee shall be the amount of expenditure incurred by such employer. The amount so determined shall be reduced by the amount, if any, paid or recovered from the employee for such benefit or amenity:

Provided that nothing contained in this sub-rule shall apply to free food and non-alcoholic beverages provided by such employer during working hours at office or business premises or through paid vouchers which are not transferable and usable only at eating joints, to the extent the value thereof in either case does not exceed Rs. 50 per meal or to tea or snacks provided during working hours or to free food and non-alcoholic beverages during working hours provided in a remote area or an off-shore installation.

(iv) The value of any gift, or voucher, or token in lieu of which such gift may be received by the employee or by member of his household on ceremonial occasions or otherwise from the employer, who is not liable to pay fringe benefit tax under Chapter XII-H of the Act, shall be determined as the sum equal to the amount of such gift. However, where the value of such gift, voucher or token, as the case may be, is below Rs. 5,000 in the aggregate during the previous year, the value of perquisite shall be taken as 'nil'.

(Contd. on p. 1.42)

Provided that where one or more motor-cars are owned or hired by the employer and the employee or any member of his household are allowed the use of such motor-car or all of any of such motor-cars (otherwise than wholly and exclusively in the performance of his duties), the value of perquisite shall be the amount calculated in respect of one car in accordance with Sl. No. (1)(c)(i) of Table II as if the employee had been provided one motor-car for use partly in the performance of

(Contd. from p. 1.41)

- (v) The amount of expenses including membership fees and annual fees incurred by the employee or any member of his household, which is charged to a credit card (including any add-on-card), provided by the employer, who is not liable to pay fringe benefit tax under Chapter XII-H of the Act, or otherwise, paid for or reimbursed by such employer shall be taken to be the value of perquisite chargeable to tax. However, there shall be no value of such benefit where the expenses are incurred wholly and exclusively for official purposes and the following conditions are fulfilled—
- (a) complete details in respect of such expenditure are maintained by the employer which may, *inter alia*, include the date of expenditure and the nature of expenditure;
 - (b) the employer gives a certificate for such expenditure to the effect that the same was incurred wholly and exclusively for the performance of official duties.

The amount so determined shall be reduced by the amount, if any paid or recovered from the employee for such benefit or amenity.

- (vi) (A) The value of benefit to the employee resulting from the payment or reimbursement by the employer, who is not liable to pay fringe benefit tax under Chapter XII-H of the Act, of any expenditure incurred (including the amount of annual or periodical fee) in a club by him or by any member of his household shall be determined to be the actual amount of expenditure incurred or reimbursed by such employer on that account. The amount so determined shall be reduced by the amount, if any paid or recovered from the employee for such benefit or amenity. However, where the employer has obtained corporate membership of the club and the facility is enjoyed by the employee or any member of his household, the value of perquisite shall not include the initial fee paid for acquiring such corporate membership.
- (B) Nothing contained in this sub-rule shall apply if such expenditure is incurred wholly and exclusively for business purposes and the following conditions are fulfilled:—
- (a) complete details in respect of such expenditure are maintained by the employer which may, *inter alia*, include the date of expenditure, the nature of expenditure and its business expediency;
 - (b) the employer gives a certificate for such expenditure to the effect that the same was incurred wholly and exclusively for the performance of official duties;
 - (c) nothing contained in this sub-rule shall apply for use of health club, sports and similar facilities provided uniformly to all employees by the employer.
- (vii) The value of benefit to the employee resulting from the use by the employee or any member of his household of any movable asset (other than assets already specified in this rule and other than laptops and computers) belonging to the employer or hired by him shall be determined at 10% per annum of the actual cost of such asset or the amount of rent or charge paid or payable by the employer, as the case may be, as reduced by the amount, if any, paid or recovered from the employee for such use.
- (viii) The value of benefit to the employee arising from the transfer of any movable asset belonging to the employer directly or indirectly to the employee or any member of his household shall be determined to be the amount representing the actual cost of such asset to the employer as reduced by the cost of normal wear and tear calculated at the rate of 10% of such cost for each completed year during which such asset was put to use by the employer and as further reduced by the amount, if any, paid or recovered from the employee being the consideration for such transfer:

Provided that in the case of computers and electronic items, the normal wear and tear would be calculated at the rate of 50% and in the case of motor cars at the rate of 20% by the reducing balance method.

(Contd. on p. 1.43)

his duties and partly for his private or personal purposes and the amount calculated in respect of the other car or cars in accordance with Sl. No. (1)(b) of Table II as if he had been provided with such car exclusively for his private or personal purposes.

(Contd. from p. 1.42)

- (ix) The value of any other benefit or amenity, service, right or privilege provided by the employer shall be determined on the basis of cost to the employer under an arm's length transaction as reduced by the employee's contribution, if any:

Provided that nothing contained in this item shall apply to the expenses on telephones including a mobile phone actually incurred on behalf of the employee by the employer.

(8) [***]

(9) This rule shall come into force with effect from the 1st day of April, 2001:

Provided that the employee may, at his option, compute the value of all perquisites made available to him or any member of his household for the period beginning on 1st day of April, 2001 and ending on 30th day of September, 2001 in accordance with the Rules as they stood prior to this amendment:

Provided further that for an employee being an employee of an airline, the provisions of sub-rule (6) shall come into force with effect from the 1st day of April, 2002.

Explanation.—For the purposes of this rule—

- (i) "accommodation" includes a house, flat, farm house or part thereof, or accommodation in a hotel, motel, service apartment, guest house, caravan, mobile home, ship or other floating structure;
- (ii) "entertainment" includes hospitality of any kind and also, expenditure on business gifts other than free samples of the employers own product with the aim of advertising to the general public;
- (iii) "hotel" includes licensed accommodation in the nature of motel, service apartment or guest house;
- (iv) "member of household" shall include—
 - (a) spouse(s)
 - (b) children and their spouses
 - (c) parents
 - (d) servants and dependants;
- (v) "remote area", for purposes of proviso to this sub-rule means an area that is located at least 40 kilometres away from a town having a population not exceeding 20,000 based on latest published all-India census;
- (vi) "salary" includes the pay, allowances, bonus or commission payable monthly or otherwise or any monetary payment, by whatever name called from one or more employers, as the case may be, but does not include the following, namely:—
 - (a) dearness allowance or dearness pay unless it enters into the computation of superannuation or retirement benefits of the employee concerned;
 - (b) employer's contribution to the provident fund account of the employee;
 - (c) allowances which are exempted from payment of tax;
 - (d) the value of perquisites specified in clause (2) of section 17 of the Income-tax Act;
 - (e) any payment or expenditure specifically excluded under proviso to sub-clause (iii) of clause (2) or proviso to clause (2) of section 17;
- (vii) "maximum outstanding monthly balance" means the aggregate outstanding balance for each loan as on the last day of each month.'

Earlier rule 3 was amended by the IT (Amdt.) Rules, 1974, w.e.f. 2-4-1974, IT (Third Amdt.) Rules, 1974, w.e.f. 21-9-1974, IT (Fourth Amdt.) Rules, 1976, w.e.f. 2-4-1976, IT (Eighth Amdt.) Rules, 1986, w.e.f. 1-4-1987, IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988 and IT (Fifth Amdt.) Rules, 1995, w.e.f. 2-6-1995.

70. See sections 17(2) and 295(2)(c). There is no merit in submission that rule 3 which was substituted with effect from 1-4-2001 is illegal as section 17(2)(vi) came into effect only from 1-4-2002 - *BHEL Employees' Association v. Union of India* [2003] 128 Taxman 309/261 ITR 15 (Kar.).

(Contd. on p. 1.44)

(B) Where the employer or the employee claims that the motor-car is used wholly and exclusively in the performance of official duty or that the actual expenses on the running and maintenance of the motor-car owned by the employee for official purposes is more than the amounts deductible in Sl. No. 2(ii) or 3(ii) of Table II, he may claim a higher amount attributable to such official use and the value of

(Contd. from p. 1.43)

71. Rule 3, as amended by SO 940(E), dated 25-9-2000 [IT (22nd Amdt.) Rules, 2001], is constitutionally valid - *Tata Workers' Union v. Union of India* [2002] 123 Taxman 426/256 ITR 725 (Jharkhand)/*P.N. Tiwari v. Union of India* [2003] 133 Taxman 482 (All.)/*BHEL Employees' Association v. Union of India* [2003] 128 Taxman 309/261 ITR 15 (Kar.)/*Aditya Cement Staff Club v. Union of India* [2003] 131 Taxman 609 (Raj.)/*All India State Bank of Indore Officer's Coordination Committee v. CBDT* [2004] 134 Taxman 303 (MP)/*BHEL Executives' Officers Association v. Dy. CIT* [2004] 269 ITR 390/141 Taxman 40 (Mad.)/*National Federation of Insurance Field Workers of India v. Union of India* [2004] 265 ITR 84/135 Taxman 307 (Uttaranchal)/*V.R. Prasad v. Union of India* [2004] 271 ITR 178 (Ker.)/*Federal Bank of Officers' Association v. Union of India* [2004] 140 Taxman 173 (Ker.). Rule 3 is mandatory and not directory, and cannot be ignored even by the Tribunal—*CIT v. K.S. Sundaram* [1999] 105 Taxman 317 (Mad.), affirmed by Supreme Court in [2001] 119 Taxman 782/251 ITR 781. For bringing the value of a perquisite to tax, the benefit or amenity must have a legal origin, and it cannot take within its ambit any unauthorised advantage availed by the employee - *CIT v. C. Kulandaivelu Konar* [1975] 100 ITR 629 (Mad.); *CIT v. A.R. Adaikappa Chettiar* [1973] 91 ITR 90 (Mad.); *M.M. Metha v. CIT* [1979] 117 ITR 362 (Cal.); *CIT v. S.S.M. Lingappan* [1981] 129 ITR 597 (Mad.); *CIT v. Jawaharlal Nagpal* [1988] 171 ITR 136 (MP). Contingent payments to which the employee has no right till the contingency arises are not covered, and the employee must have a vested right to claim it - *CIT v. L.W. Russel* [1964] 53 ITR 91 (SC). Amounts disallowed in employer's assessment cannot automatically be treated as a benefit in the hands of the recipient of the benefit—*CIT v. K. Govindarajulu* [1988] 173 ITR 112 (Mad.)/*CIT v. S.S.M. Lingappan* [1981] 129 ITR 597 (Mad.). The power given to CBDT to identify 'fringe benefit' and 'amenity' cannot be struck down as an excessive piece of delegation - *BHEL Employees' Association v. Union of India* [2003] 128 Taxman 309/261 ITR 15 (Kar.). For details, see Taxmann's Master Guide to Income-tax Rules.
72. Provision of accommodation must be based on employer-employee relationship, and must have arisen as a result of posting the employee at a particular place of duty. Where appointment was not under contract but under a board resolution containing no terms and conditions of service, assessee is not a 'servant' of the company which provided rent-free accommodation - *CIT v. Lakshmiapati Singhania* [1973] 92 ITR 598 (All.). Perquisite is taxable even if employee has neither used the accommodation as his residence nor has forgone or waived the right to enjoy the benefit - *CIT v. Bawa Singh Chauhan* [1984] 150 ITR 8 (Delhi). Rent-free accommodation provided by foreign employer to State Government officer sent on deputation, is a taxable perquisite - *CIT v. Dr. K.L. Parekh* [1994] 208 ITR 965 (Raj.). Where company pays rent directly to the landlord in respect of premises provided rent-free to its director, perquisite must be valued under section 17(2)(i) and not under section 17(2)(iv) - *CIT v. Jagadish Prasad Goenka* [1992] 196 ITR 15 (Cal.). Furniture supplied at a particular hiring rate by employer to employee cannot be treated to be at concessional rate so as to be treated as a perquisite - *Corporation Bank Officers' Organisation v. Corporation Bank* [2004] 269 ITR 222 (Cal.). "Salary" received from more than one employer must be aggregated for purposes of valuation of perquisite, even if accommodation is provided rent-free by only one of the employers - *CIT v. Mohanlal Jalan* [1989] 43 Taxman 246 (Bom.). "Salary" includes income-tax borne by employer - *Symonds Distributors (P.) Ltd. v. CIT* [1972] 86 ITR 88 (All.)/*CIT v. H.D. Dennis* [1982] 135 ITR 1 (Bom.). Provision is to be applied even to cases where the employer takes accommodation on rent and then provides it to the employer - *CIT v. K.S. Sundaram* [1999] 105 Taxman 317 (Mad.) affirmed by Supreme Court in [2001] 119 Taxman 782/251 ITR 781. Classification of employees as Government employees and other employees in the public sector or private sector for determining the value of perquisite on rent-free accommodation is not violative of article 14 of the Constitution - *Arun Kumar v. Union of India* [2006] 155 Taxman 659 (SC) and *BHEL Employees' Association v. Union of India* [2003] 128 Taxman 309/261 ITR 15 (Kar.). The word 'rent' used in section 17(2)(ii) would mean charges for using unfurnished accommodation provided by an employer to its employee; one should not read

(Contd. on p. 1.45)

perquisite in such a case shall be the actual amount of charges met or reimbursed by the employer as reduced by such higher amount attributable to official use of the vehicle provided that the following conditions are fulfilled :—

- (a) the employer has maintained complete details of journey undertaken for official purpose which may include date of journey, destination, mileage, and the amount of expenditure incurred thereon;
- (b) the employer gives a certificate to the effect that the expenditure was incurred wholly and exclusively for the performance of official duties.

Explanation.—For the purposes of this sub-rule, the normal wear and tear of a motor-car shall be taken at 10 per cent per annum of the actual cost of the motor-car or cars.

⁷³(3) The value of benefit to the employee or any member of his household resulting from the provision by the employer of services of a sweeper, a gardener, a watchman or a personal attendant, shall be the actual cost to the employer. The actual cost in such a case shall be the total amount of salary paid or payable by the employer or any other person on his behalf for such services as reduced by any amount paid by the employee for such services.

(4) The value of the benefit to the employee resulting from the supply of gas, electric energy or water for his household consumption shall be determined as the

(Contd. from p. 1.44)

either fair rent or normal rent or standard rent in the expression 'rent' used in sub-clause (ii) of clause (2) of section 17, for there is no just reasons, nor there is any such reason to do so - *Coal Mines Officers' Association of India v. Union of India* [2004] 137 Taxman 92 (Cal). Different values fixed for big city and small city cannot be construed as unreasonable - *Tata Workers' Union v. Union of India* [2000] 256 ITR 725 (Jharkhand). Rule 3 is in the nature of 'machinery-provision' and applies only to the cases of 'concession' in the matter of rent respecting any accommodation provided by an employer to his employees; in spite of legal position that rule 3 is *intra vires*, valid and is not inconsistent with provisions of parent Act, under section 17(2)(ii) it is open to an assessee-employee to contend that there is no 'concession' in matter of accommodation provided by employer to employees and case is not covered by section 17(2)(ii) - *Arun Kumar v. UOI* [2006] 155 Taxman 659 (SC). Since sub-clause (d) of clause (vi) of *Explanation* to rule 3 specifically excludes perquisites specified in section 17(2) from salary for purpose of computation of perquisites, in principle salary will not include tax paid by employer on behalf of employee for purpose of determination of perquisite value of rent-free accommodation under rule 3 - *Asstt. CIT v. Makote Hoshizaki* [2009] 27 SOT 191 (Delhi - Trib.). Tax paid by the employer in respect of salaries paid to employees is 'salary' under rule 3 - *Mitsubishi Corpn. v. Dy. CIT* [2008] 20 SOT 1/115 ITD 167 (Delhi - Trib.). Where assessee was initially provided hotel accommodation by employer company and later flat was taken on lease, there was no merit in contention of assessee that no perquisite value should be included in total income of assessee in respect of hotel accommodation; however, there was merit in contention of assessee that as per rule 3(a)(iii)(A), perquisite value of accommodation should be computed separately for each period when hotel accommodation and flat, respectively, were provided to assessee - *Asstt. CIT v. Andrew Holland* [2008] 20 SOT 217 (Mum. - Trib.). It is only lease rental paid or payable and nothing else which can be taken into account for purpose of valuation of residential accommodation under rule 3(1) but where along with rent-free residential accommodation assessee's employer had provided certain benefits or amenities or services covered by 'amenities agreement' to assessee through service provider, value thereof had rightly been worked out and taxed under rule 3(8) - *Harit Nagpal v. ITO* [2008] 23 SOT 281 (Mum. - Trib.). For treating any payment as 'rent', there must be the relationship of tenant-landlord between the payer and the payee - *Harit Nagpal v. ITO* [2008] 23 SOT 281 (Mum. - Trib.). For details, see Taxmann's Master Guide to Income-tax Rules.

73. Treating salary paid by employer to domestic servant provided to employee as a taxable perquisite cannot be said to result in any double taxation - *BHEL Employees' Association v. Union of India* [2003] 128 Taxman 309/261 ITR 15 (Kar.).

sum equal to the amount paid on that account by the employer to the agency supplying the gas, electric energy or water. Where such supply is made from resources owned by the employer, without purchasing them from any other outside agency, the value of perquisite would be the manufacturing cost per unit incurred by the employer. Where the employee is paying any amount in respect of such services, the amount so paid shall be deducted from the value so arrived at.

⁷⁴(5) The value of benefit to the employee resulting from the provision of free or concessional educational facilities for any member of his household shall be determined as the sum equal to the amount of expenditure incurred by the employer in that behalf or where the educational institution is itself maintained and owned by the employer or where free educational facilities for such member of employees' household are allowed in any other educational institution by reason of his being in employment of that employer, the value of the perquisite to the employee shall be determined with reference to the cost of such education in a similar institution in or near the locality. Where any amount is paid or recovered from the employee on that account, the value of benefit shall be reduced by the amount so paid or recovered :

Provided that where the educational institution itself is maintained and owned by the employer and free educational facilities are provided to the children of the employee or where such free educational facilities are provided in any institution by reason of his being in employment of that employer, nothing contained in this sub-rule shall apply if the cost of such education or the value of such benefit per child does not exceed one thousand rupees per month.

(6) The value of any benefit or amenity resulting from the provision by an employer who is engaged in the carriage of passengers or goods, to any employee or to any member of his household for personal or private journey free of cost or at concessional fare, in any conveyance owned, leased or made available by any other arrangement by such employer for the purpose of transport of passengers or goods shall be taken to be the value at which such benefit or amenity is offered by such employer to the public as reduced by the amount, if any, paid by or recovered from the employee for such benefit or amenity :

Provided that nothing contained in this sub-rule shall apply to the employees of an airline or the railways.

(7) In terms of provisions contained in sub-clause (viii) of clause (2) of section 17, the following other benefits or amenities and value thereof shall be determined in the manner provided hereunder:

⁷⁵(i) The value of the benefit to the assessee resulting from the provision of interest-free or concessional loan for any purpose made available to the employee or any member of his household during the relevant previous year by the employer or any person on his behalf shall be determined as

74. See *Birla Vidya Niketan v. ITO* [2008] 166 Taxman 472 (Delhi)/ *ITO v. Director, Delhi Public School* [2007] 18 SOT 453 (Delhi - Trib.)/ *ITO v. Bal Bharati Public School* [2007] 17 SOT 151 (Delhi - Trib.)/ *CIT (TDS) v. Delhi Public School* [2008] 167 Taxman 134 (Delhi).

75. Since advance of interest-free loan or loan at concessional rate of interest by employer to its employees reduces employee's financial liability which can be considered as an income saved, it can undoubtedly be treated as 'fringe benefit' or 'amenity' given to employee—*BHEL Employees' Association v. Union of India* [2003] 128 Taxman 309/261 ITR 15 (Kar.). Rule will apply even to cases where, in addition to debtor-creditor relationship, there exists employer-employee relationship—*CIT v. C. Kulandaivelu Konar* [1975] 100 ITR 629 (Mad.). Mere fact that loan was treated as deemed dividend under section 2(22)(e) will not be an impediment to the application of this rule—*CIT v. T.P.S.H. Selva Saroja* [2000] 244 ITR 671 (Mad.).

the sum equal to the interest computed at the rate⁷⁶ charged per annum by the State Bank of India, constituted under the State Bank of India Act, 1955 (23 of 1955), as on the 1st day of the relevant previous year in respect of loans for the same purpose advanced by it on the maximum outstanding monthly balance as reduced by the interest, if any, actually paid by him or any such member of his household:

Provided that no value would be charged if such loans are made available for medical treatment in respect of diseases specified in rule 3A of these Rules or where the amount of loans are petty not exceeding in the aggregate twenty thousand rupees:

Provided further that where the benefit relates to the loans made available for medical treatment referred to above, the exemption so provided shall not apply to so much of the loan as has been reimbursed to the employee under any medical insurance scheme.

- (ii) The value of travelling, touring, accommodation and any other expenses paid for or borne or reimbursed by the employer for any holiday availed of by the employee or any member of his household, other than concession or assistance referred to in rule 2B of these rules, shall be determined as the sum equal to the amount of the expenditure incurred by such employer in that behalf. Where such facility is maintained by the employer, and is not available uniformly to all employees, the value of benefit shall be taken to be the value at which such facilities are offered by other agencies to the public. Where the employee is on official tour and the expenses are incurred in respect of any member of his household accompanying him, the amount of expenditure so incurred shall also be a fringe benefit or amenity:

Provided that where any official tour is extended as a vacation, the value of such fringe benefit shall be limited to the expenses incurred in relation to such extended period of stay or vacation. The amount so determined shall be reduced by the amount, if any, paid or recovered from the employee for such benefit or amenity.

- (iii) The value of free food and non-alcoholic beverages provided by the employer to an employee shall be the amount of expenditure incurred by such employer. The amount so determined shall be reduced by the amount, if any, paid or recovered from the employee for such benefit or amenity:

Provided that nothing contained in this clause shall apply to free food and non-alcoholic beverages provided by such employer during working hours at office or business premises or through paid vouchers which are not transferable and usable only at eating joints, to the extent the value thereof either case does not exceed fifty rupees per meal or to tea or snacks provided during working hours or to free food and non-alcoholic beverages during working hours provided in a remote area or an off-shore installation.

76. For rate of interest, see Taxmann's Master Guide to Income-tax Rules. In *All India Punjab National Bank Officers' Association v. Chairman-cum-Managing Director, Punjab National Bank* [2010] 190 Taxman 221/321 ITR 324 (MP), it was held that as per rule 3(7) Legislature has intended to value concessional loan for purpose of arriving at value of concession by making a simple calculation of difference between SBI rate and rate paid by employee; there is no merit in submission that determination of perquisite in matter of concessional loan by comparing it to SBI PLR rate is arbitrary.

- (iv) The value of any gift, or voucher, or token in lieu of which such gift may be received by the employee or by member of his household on ceremonial occasions or otherwise from the employer shall be determined as the sum equal to the amount of such gift:

Provided that where the value of such gift, voucher or token, as the case may be, is below five thousand rupees in the aggregate during the previous year, the value of perquisite shall be taken as “nil”.

- (v) The amount of expenses including membership fees and annual fees incurred by the employee or any member of his household, which is charged to a credit card (including any add-on-card) provided by the employer, or otherwise, paid for or reimbursed by such employer shall be taken to be the value of perquisite chargeable to tax as reduced by the amount, if any paid or recovered from the employee for such benefit or amenity:

Provided that there shall be no value of such benefit where expenses are incurred wholly and exclusively for official purposes and the following conditions are fulfilled:—

- (a) complete details in respect of such expenditure are maintained by the employer which may, *inter alia*, include the date of expenditure and the nature of expenditure;
- (b) the employer gives a certificate for such expenditure to the effect that the same was incurred wholly and exclusively for the performance of official duties.

- (vi) (A) The value of benefit to the employee resulting from the payment or reimbursement by the employer of any expenditure incurred (including the amount of annual or periodical fee) in a club by him or by a member of his household shall be determined to be the actual amount of expenditure incurred or reimbursed by such employer on that account. The amount so determined shall be reduced by the amount, if any paid or recovered from the employee for such benefit or amenity:

Provided that where the employer has obtained corporate membership of the club and the facility is enjoyed by the employee or any member of his household, the value of perquisite shall not include the initial fee paid for acquiring such corporate membership.

(B) Nothing contained in this clause shall apply if such expenditure is incurred wholly and exclusively for business purposes and the following conditions are fulfilled:—

- (a) complete details in respect of such expenditure are maintained by the employer which may, *inter alia*, include the date of expenditure, the nature of expenditure and its business expediency;
- (b) the employer gives a certificate for such expenditure to the effect that the same was incurred wholly and exclusively for the performance of official duties.
- (C) Nothing contained in this clause shall apply for use of health club, sports and similar facilities provided uniformly to all employees by the employer.
- (vii) The value of benefit to the employee resulting from the use by the employee or any member of his household of any movable asset (other

than assets already specified in this rule and other than laptops and computers) belonging to the employer or hired by him shall be determined at 10 per cent per annum of the actual cost of such asset or the amount of rent or charge paid or payable by the employer, as the case may be, as reduced by the amount, if any, paid or recovered from the employee for such use.

- (viii) The value of benefit to the employee arising from the transfer of any movable asset belonging to the employer directly or indirectly to the employee or any member of his household shall be determined to be the amount representing the actual cost of such assets to the employer as reduced by the cost of normal wear and tear calculated at the rate of 10 per cent of such cost for each completed year during which such asset was put to use by the employer and as further reduced by the amount, if any, paid or recovered from the employee being the consideration for such transfer :

Provided that in the case of computers and electronic items, the normal wear and tear would be calculated at the rate of 50 per cent and in the case of motor cars at the rate of 20 per cent by the reducing balance method.

- (ix) The value of any other benefit or amenity, service, right or privilege provided by the employer shall be determined on the basis of cost to the employer under an arm's length transaction as reduced by the employee's contribution, if any :

Provided that nothing contained in this clause shall apply to the expenses on telephones including a mobile phone actually incurred on behalf of the employee by the employer.

(8)(i) For the purposes of sub-clause (vi) of clause (2) of section 17, the fair market value of any specified security or sweat equity share, being an equity share in a company, on the date on which the option is exercised by the employee, shall be determined in accordance with the provisions of clause (i) or clause (iii).

(ii) In a case where, on the date of the exercising of the option, the share in the company is listed on a recognized stock exchange, the fair market value shall be the average of the opening price and closing price of the share on that date on the said stock exchange :

Provided that where, on the date of exercising of the option, the share is listed on more than one recognized stock exchanges, the fair market value shall be the average of opening price and closing price of the share on the recognised stock exchange which records the highest volume of trading in the share :

Provided further that where, on the date of exercising of the option, there is no trading in the share on any recognized stock exchange, the fair market value shall be—

- (a) the closing price of the share on any recognised stock exchange on a date closest to the date of exercising of the option and immediately preceding such date; or
- (b) the closing price of the share on a recognised stock exchange, which records the highest volume of trading in such share, if the closing price, as on the date closest to the date of exercising of the option and immediately preceding such date, is recorded on more than one recognized stock exchange.

(iii) In a case where, on the date of exercising of the option, the share in the company is not listed on a recognised stock exchange, the fair market value shall be such value of the share in the company as determined by a merchant banker on the specified date.

(iv) For the purpose of this sub-rule,—

- (a) “closing price” of a share on a recognised stock exchange on a date shall be the price of the last settlement on such date on such stock exchange : **Provided** that where the stock exchange quotes both “buy” and “sell” prices, the closing price shall be the “sell” price of the last settlement;
- (b) “merchant banker” means category I merchant banker registered with Securities and Exchange Board of India established under section 3 of the Securities and Exchange Board of India Act, 1992 (15 of 1992);
- (c) “opening price” of a share on a recognised stock exchange on a date shall be the price of the first settlement on such date on such stock exchange : **Provided** that where the stock exchange quotes both “buy” and “sell” prices, the opening price shall be the “sell” price of the first settlement;
- (d) “recognised stock exchange” shall have the same meaning assigned to it in clause (f) of section 2 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956);
- (e) “specified date” means,—
 - (i) the date of exercising of the option; or
 - (ii) any date earlier than the date of the exercising of the option, not being a date which is more than 180 days earlier than the date of the exercising.

(9) For the purposes of sub-clause (vi) of clause (2) of section 17, the fair market value of any specified security, not being an equity share in a company, on the date on which the option is exercised by the employee, shall be such value as determined by a merchant banker on the specified date.

Explanation.—For the purposes of this sub-rule, “merchant banker” and “specified date” shall have the meanings assigned to them in sub-clause (b) and sub-clause (e) respectively of clause (iv) of sub-rule (8).

(10) This rule shall come into force with effect from the 1st day of April, 2009.

Explanation.—For the purposes of this rule—

- (i) “accommodation” includes a house, flat, farm house or part thereof, or accommodation in a hotel, motel, service apartment, guest house, caravan, mobile home, ship or other floating structure;
- (ii) “entertainment” includes hospitality of any kind and also, expenditure on business gifts other than free samples of the employers own product with the aim of advertising to the general public;
- (iii) “hotel” includes licensed accommodation in the nature of motel, service apartment or guest house;
- (iv) “member of household” shall include—
 - (a) spouse(s),
 - (b) children and their spouses,
 - (c) parents, and
 - (d) servants and dependants;

- (v) "remote area", for purposes of proviso to this sub-rule means an area that is located at least 40 kilometres away from a town having a population not exceeding 20,000 based on latest published all-India census;
- (vi) "salary" includes the pay, allowances, bonus or commission payable monthly or otherwise or any monetary payment, by whatever name called from one or more employers, as the case may be, but does not include the following, namely:—
 - (a) dearness allowance or dearness pay unless it enters into the computation of superannuation or retirement benefits of the employee concerned;
 - (b) employer's contribution to the provident fund account of the employee;
 - (c) allowances which are exempted from payment of tax;
 - (d) the value of perquisites specified in clause (2) of section 17 of the Income-tax Act;
 - (e) any payment or expenditure specifically excluded under proviso to sub-clause (iii) of clause (2)* or proviso to clause (2) of section 17;
 - (f) lump-sum payments received at the time of termination of service or superannuation or voluntary retirement, like gratuity, severance pay, leave encashment, voluntary retrenchment benefits, commutation of pension and similar payments;
- (vii) "maximum outstanding monthly balance" means the aggregate outstanding balance for each loan as on the last day of each month.]

⁷⁷[Exemption of medical benefits from perquisite value in respect of medical treatment of prescribed diseases or ailments in hospitals approved by the Chief Commissioner.]

3A. (1) ⁷⁸[In granting approval to any hospital other than a hospital for Indian system of medicine and homoeopathic treatment for the purposes of sub-clause (b) of clause (ii) of the proviso to sub-clause (vi) of clause (2) of section 17], the Chief Commissioner shall satisfy himself that the hospital is registered with the local authority and fulfils the following requirements, namely :—

- (i) The building used for the hospital complies with the municipal bye-laws in force.
- (ii) The rooms are well ventilated, lighted and are kept in clean and hygienic conditions.
- (iii) At least ten iron spring beds are provided for patients.
- (iv) At least one properly equipped operation theatre is provided, with minimum floor space of 180 square feet and with a separate sterilisation room.

77. Inserted by the IT (Nineteenth Amdt.) Rules, 1992, w.e.f. 7-10-1992. Earlier rule 3A was inserted by the IT (Second Amdt.) Rules, 1985, w.e.f. 1-4-1985 and later omitted by the IT (Amdt.) Rules, 1986, w.e.f. 1-4-1986.

78. Substituted for "In granting approval to any hospital for the purposes of sub-clause (b) of clause (ii) of the proviso to clause (2) of section 17" by the IT (Nineteenth Amdt.) Rules, 2004, w.e.f. 7-12-2004.

*Sub-clause (iii) of clause (2) of section 17 was omitted by the Finance Act, 2007, w.e.f. 1-4-2008.

- (v) At least one labour room is provided, with minimum floor space of 180 square feet, in case the hospital provides medical service for maternity cases.
- (vi) Aseptic conditions are maintained in the operation theatre and the labour room.
- (vii) A duty room is provided for the nursing staff on duty.
- (viii) Adequate space for storage of medicines, food articles, equipments, etc., is provided.
- (ix) The water used in the hospital or nursing home is fit for drinking.
- (x) Adequate arrangements are made for isolating septic and infectious patients.
- (xi) The hospital is provided with and maintains :—
 - (a) high pressure sterilizer and instrument sterilizer;
 - (b) oxygen cylinders and necessary attachments for giving oxygen;
 - (c) adequate surgical equipments, instruments and apparatus including intravenous apparatus;
 - (d) a pathological laboratory for testing of blood, urine and stool;
 - (e) electro-cardiogram monitoring system;
 - (f) stand-by generator for use in case of power failure.
- (xii) There is at least one qualified doctor available on duty round the clock for every twenty beds or fraction thereof.
- (xiii) In hospitals providing intensive care unit facilities, there are at least two qualified doctors available on duty round the clock exclusively for such intensive care unit.
- (xiv) One nurse is on duty round the clock for every five beds or a fraction thereof.
- (xv) In hospitals providing intensive care unit facilities, there are at least four nurses provided exclusively for every four beds or fraction thereof for such intensive care unit.
- (xvi) The hospital maintains record of health of every patient containing information about the patient's name, address, occupation, sex, age, date of admission, date of discharge, diagnosis of disease and treatment undertaken.

⁷⁹[(1A) In granting approval to any hospital for Indian system of medicine and homoeopathic treatment for the purposes of sub-clause (b) of clause (ii) of the proviso to sub-clause (vi) of clause (2) of section 17, the Chief Commissioner shall satisfy himself that the hospital fulfils the conditions specified *vide* Office Memorandum dated the 6th June, 2002⁸⁰, by the Department of Indian Systems of Medicine and Homoeopathy, Ministry of Health and Family Welfare for approval of private hospitals for Indian system of medicine and homoeopathic treatment to Central Government Health Scheme beneficiaries and Central Government employees.]

79. Inserted by the IT (Nineteenth Amdt.) Rules, 2004, w.e.f. 7-12-2004.

80. For text of Office Memorandum, dated 6-6-2002, *see* **Appendix**.

(2) For the purpose of sub-clause (b) of clause (ii) of the proviso to ⁸¹[sub-clause (vi) of] clause (2) of section 17, the prescribed diseases or ailments shall be the following, namely :—

- (a) cancer;
- (b) tuberculosis;
- (c) acquired immunity deficiency syndrome;
- (d) disease or ailment of the heart, blood, lymph glands, bone marrow, respiratory system, central nervous system, urinary system, liver, gall bladder, digestive system, endocrine glands or the skin, requiring surgical operation;
- (e) ailment or disease of the eye, ear, nose or throat, requiring surgical operation;
- (f) fracture in any part of the skeletal system or dislocation of vertebrae requiring surgical operation or orthopaedic treatment;
- (g) gynaecological or obstetric ailment or disease requiring surgical operation, caesarean operation or laparoscopic intervention;
- (h) ailment or disease of the organs mentioned at (d), requiring medical treatment in a hospital for at least three continuous days;
- (i) gynaecological or obstetric ailment or disease requiring medical treatment in a hospital for at least three continuous days;
- (j) burn injuries requiring medical treatment in a hospital for at least three continuous days;
- (k) mental disorder - neurotic or psychotic - requiring medical treatment in a hospital for at least three continuous days;
- (l) drug addiction requiring medical treatment in a hospital for at least seven continuous days;
- (m) anaphylectic shocks including insulin shocks, drug reactions and other allergic manifestations requiring medical treatment in a hospital for at least three continuous days.

Explanation : For the purpose of this rule,—

- (a) “qualified doctor” means a person who holds a degree recognised by the Medical Council of India and is registered by the Medical Council of any State;
- (b) “nurse” means a person who holds a certificate of a recognised Nursing Council and is registered under any law for the registration of nurses;
- (c) “surgical operation” includes treatment by modern methodology such as angioplasty, dialysis, lithotripsy, laser or cryo-surgery.]

81. Inserted by the IT (Nineteenth Amdt.) Rules, 2004, w.e.f. 7-12-2004.

*B.—Income from house property*⁸²[Unrealised rent.

⁸³4. For the purposes of the *Explanation* below sub-section (1) of section 23, the amount of rent which the owner cannot realise shall be equal to the amount of rent payable but not paid by a tenant of the assessee and so proved to be lost and irrecoverable where,—

- (a) the tenancy is *bona fide*;
- (b) the defaulting tenant has vacated, or steps have been taken to compel him to vacate the property;
- (c) the defaulting tenant is not in occupation of any other property of the assessee;
- (d) the assessee has taken all reasonable steps to institute legal proceedings for the recovery of the unpaid rent or satisfies the Assessing Officer that legal proceedings would be useless.]

82. Substituted by the IT (Eighth Amdt.) Rules, 2001, w.e.f. 1-4-2002 (*i.e.*, assessment years 2002-03 onwards). Prior to its substitution, rule 4, as amended by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988, read as under :

'4. *Unrealised rent*.—Under clause (x) of sub-section (1) of section 24, deduction shall be allowed of such part of income in respect of which tax is payable under the head "Income from house property" as is equal to the amount of rent payable but not paid by a tenant of the assessee and so proved to be lost and irrecoverable where—

- (a) the tenancy is *bona fide*;
- (b) the defaulting tenant has vacated, or steps have been taken to compel him to vacate the property;
- (c) the defaulting tenant is not in occupation of any other property of the assessee;
- (d) the assessee has taken all reasonable steps to institute legal proceedings for the recovery of the unpaid rent or satisfies the Assessing Officer that legal proceedings would be useless; and
- (e) the annual value of the property to which the unpaid rent relates has been included in the assessed income of the previous year during which that rent was due and tax has been duly paid on such assessed income :

Provided that the deduction to be allowed on this account shall not exceed the income under the head "Income from house property" included in the total income as computed without making any deduction under this rule.'

83. Where tenant sets off rent due against damages for defective maintenance of premises, landlord is not entitled to any deduction towards unrealised rent - *ITO v. Purshottam Lal Roongata Family Welfare Trust* [1996] 58 ITD 19 (Jp. - Trib.) (SB). The mere prescription of a ceiling limit (prior to 1-4-1962) does not mean that the deduction could be claimed only once - *CIT v. Madho Pd. Jatia* [1976] 105 ITR 179 (SC). Neither section 24(1)(x) nor rule 4 prohibit deduction of more than one year's rent - *CIT v. Dr. N. Brahmachari* [1992] 107 CTR (Cal.) 270. Where a suit for recovery is pending and it was not shown that tenant is not capable of satisfying the decree, deduction is not admissible. The unrealised rent must be incapable of realisation for being eligible for deduction - *CIT v. Airflo Transport (I) (P.) Ltd.* [1991] 192 ITR 572 (Kar.). Where tenant deposited rent in court pursuant to the owner refusing to receive it, and owner did not take all reasonable steps to institute legal proceedings, owner is not entitled to any deduction towards unrealised rent - *CIT v. Dejoo Tea Co. (India) (P.) Ltd.* [1992] 197 ITR 278 (Cal.). Mere fact that landlord has instituted civil suit for recovery of rent will not mean that rent is recoverable - *Shree Niketan v. CIT* [1999] 104 Taxman 636 (Guj.). For details, see Taxmann's Master Guide to Income-tax Rules.

*C.—Profits and gains of business or profession*⁸⁴**[Depreciation**⁸⁵.

5. (1) Subject to the provisions of sub-rule (2), the allowance under clause (i) of sub-section (1) of section 32 in respect of depreciation of any block of assets shall be calculated at the percentages specified in the second column of the Table in Appendix I to these rules on the written down value of such block of assets as are used for the purposes of the business or profession of the assessee at any time during the previous year.

⁸⁶[(1A) The allowance under clause (i) of sub-section (1) of section 32 of the Act in respect of depreciation of assets acquired on or after 1st day of April, 1997 shall be calculated at the percentage specified in the second column of the Table in Appendix IA of these rules on the actual cost thereof to the assessee as are used for the purposes of the business of the assessee at any time during the previous year :

Provided that the aggregate depreciation allowed in respect of any asset for different assessment years shall not exceed the actual cost of the said asset :

84. See section 295(2)(d). Rule 5 has been substituted for the existing rule by the IT (Third Amdt.) Rules, 1987, w.e.f. 2-4-1987. Original rule 5 was amended by the IT (Third Amdt.) Rules, 1964, IT (Sixth Amdt.) Rules, 1969 and IT (Fourth Amdt.) Rules, 1971.

85. **GENERAL** : Parliament is competent to select and classify goods, and prescribe different rates of depreciation - *Titanium Equipments & Anodes Mfg. Co. Ltd. v. Union of India* [1994] 207 ITR 566 (Mad.). Allowance of depreciation is not dependent on genuineness or defective nature of accounts - *Allahabad Glass Works v. CIT* [1961] 42 ITR 439 (All.)/*P. Appavu Pillai v. CIT* [1965] 58 ITR 622 (Mad.). Tribunal cannot take back the depreciation benefit allowed by the Assessing Officer - *MCorp Global (P.) Ltd. v. CIT* [2009] 178 Taxman 347 (SC).

OWNER : Anyone in possession of property in his own title exercising such dominion over the property as would enable others being excluded therefrom and having right to use and occupy the property and/or to enjoy its usufruct in his own right would be the owner of the buildings though a formal deed of title may not have been executed and registered as contemplated by the Transfer of Property Act, 1882, Registration Act, 1908 etc. - *Mysore Minerals Ltd. v. CIT* [1999] 106 Taxman 166/239 ITR 775 (SC). Registration is not necessary when assessee became owner under court decree - *Hotel Skylark & Restaurant (P.) Ltd. v. CIT* [1996] 221 ITR 283 (Punj. & Har.). Registration under Motor Vehicles Act is not a pre-requisite for claiming depreciation on vehicles - *CIT v. Salkia Transport Associates* [1983] 143 ITR 39 (Cal.)/*CIT v. Dilip Singh Sardarsingh Bagga* [1993] 201 ITR 995 (Bom.)/*CIT v. Mirza Ataullah Baig* [1994] 76 Taxman 495 (Bom.). Registration of conveyance deed is not necessary when assets are transferred to assessee by Government - *CIT v. Tamil Nadu Small Industries Development Corporation Ltd.* [1995] 211 ITR 550 (Mad.)/*CIT v. Tamil Nadu Small Industries Corporation Ltd.* [1995] 215 ITR 834 (Mad.)/*CIT v. Tamil Nadu Dairy Development Corporation Ltd.* [1995] 216 ITR 535 (Mad.). Assessee would not be entitled to the claim of depreciation on the consumer durables which were leased by the applicant to various customers, and of which assessee never became owner - *Gowri Shankar Finance Ltd. v. CIT* [2001] 116 Taxman 375/248 ITR 713 (Ker.). Firm is entitled to depreciation on assets contributed towards capital by partners, where partnership deed provided that the assets would go back to partners only when firm is dissolved - *CIT v. Amber Corporation* [1974] 95 ITR 178/[1981] 127 ITR 29/[1994] 74 Taxman 302 (Raj.). Where an HUF used an asset for three months and then transferred the asset to a firm as capital contribution, depreciation is not deniable to HUF - *A.M. Ponnuranga Mudaliar v. CIT* [1996] 88 Taxman 482 (Mad.). Depreciation is allowable to firm on trucks transferred as capital contribution by partners, even though transport registration continued in the names of partners - *CIT v. Navdurga Transport Co.* [1999] 235 ITR 158 (All.). Company is entitled to depreciation in case of assets purchased in name of directors - *CIT v. Varanasi Auto Sales (P.) Ltd.* [2010] 190 Taxman 60 (All.).

'USER' OF ASSET : 'User' of the asset need not be active use, and can even be passive use - *Capital Bus Service (P.) Ltd. v. CIT* [1980] 123 ITR 404 (Delhi)/*Forest Industries Travancore Ltd.*

(Contd. on p. 1.56)