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THE LAW AND PRACTICE
OF
INCOME TAX

VOLUME II

THE LAW AND PRACTICE

OF

INCOME TAX

BY

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DIVISION 1

THE INDIAN INCOME-TAX ACT, 1922

THE INDIAN INCOME-TAX ACT, 1922

ACT No. XI OF 1922[1]

[*5th March*, 1922.]

An Act to consolidate and amend the law relating to Income-tax and Super-tax

WHEREAS it is expedient to consolidate and amend the law relating to Income-tax and Super-tax ; it is hereby enacted as follows :—

1. Short title, extent and commencement.—(1) This Act may be called the Indian Income-tax Act, 1922.

[2][(2) It extends to the whole of India.]

(3) It shall come into force on the first day of April, 1922.

2. Definitions.—In this Act, unless there is anything repugnant in the subject or context,—

(1) "agricultural income" means—

(*a*) any rent or revenue derived from land which is used for agricultural purposes, and is either assessed to land-revenue in [3][the taxable territories] or subject to a local rate assessed and collected by [4][officers of the Government] as such ;

(*b*) any income derived from such land by—

(*i*) agriculture, or

(*ii*) the performance by a cultivator or receiver of rent-in-kind of any process ordinarily employed by a cultivator or receiver of rent-in-kind to render the produce raised or received by him fit to be taken to market, or

(*iii*) the sale by a cultivator or receiver of rent-in-kind of the produce raised or received by him, in respect of which no process has been performed other than a process of the nature described in sub-clause (*ii*) ; (R. 23, 24.)

---

[1] For Statement of Objects and Reasons, *see Gazette of India*, 1921, Pt. V, p. 159, and for Report of Joint Committee, *see ibid.*, 1922, Pt. V, p. 31.

This Act has been declared in force in the district of Khondmals by s. 3 and Sch. of the Khondmals Laws Regulation, 1936 (4 of 1936), and in the district of Angul by s. 3 and Sch. of the Angul Laws Regulations, 1936 (5 of 1936). The Act has been extended to Berar by Act 4 of 1941.

[2] Substituted by s. 2 and Sch. of the Taxation Laws (Extension to Jammu and Kashmir) Act, 1954 (41 of 1954).

[3] Substituted for "British India" by the Adaptation of Laws Order, 1950.

[4] Substituted for "Officers of the Crown", *ibid.* "Officers of the Crown" had been substituted for "Officers of Government" by the Government of India (Adaptation of Indian Laws) Order, 1937.

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(*c*) any income derived from any building owned and occupied by the receiver of the rent or revenue of any such land, or occupied by the cultivator, or the receiver of rent-in-kind, of any land with respect to which, or the produce of which, any operation mentioned in sub-clauses (*ii*) and (*iii*) of clause (*b*) is carried on :

Provided that the building is on or in the immediate vicinity of the land, and is a building which the receiver of the rent or revenue or the cultivator or the receiver of the rent-in-kind by reason of his connection with the land, requires as a dwelling-house, or as a store-house, or other out-building ;

[5][(2) "assessee" means a person by whom income-tax or any other sum of money is payable under this Act, and includes every person in respect of whom any proceeding under this Act has been taken for the assessment of his income or of the loss sustained by him or of the amount of refund due to him] ;

(3) "[6][Appellate] Assistant Commissioner" means a person appointed to be an [6][Appellate] Assistant Commissioner of Income-tax under section 5 ;

(3A) [7]* * * * *

(4) "business" includes any trade, commerce, or manufacture or any adventure or concern in the nature of trade, commerce or manufacture ;

[8][(4A) "capital asset" means property of any kind [9][* * * *] held by an assessee, whether or not connected with his business, profession or vocation, but does not include—

(*i*) any stock-in-trade, consumable stores or raw materials held for the purposes of his business, profession or vocation ;

(*ii*) personal effects, that is to say, movable property (including wearing apparel, jewellery and furniture) held for personal use by the assessee or any member of his family dependent on him ;]

[10][(*iii*) any land from which the income derived is agricultural income ;]

[11][(4B) "the Central Board of Revenue" means the Central Board of Revenue constituted under the Central Board of Revenue Act, 1924 (IV of 1924) ;]

(5) "Commissioner" means a person appointed to be a Commissioner of Income-tax under section 5 ;

---

[5] Substituted by s. 2 of the Indian I. T. (Amendment) Act, 1953 (25 of 1953), with effect from the 1st April, 1952.

[6] Inserted by s. 2 of the Indian I. T. (Amendment) Act, 1939 (7 of 1939).

[7] Inserted by the India (Adaptation of Income-tax, Profits Tax and Revenue Recovery Acts) Order, 1947 (G. G. O. 31), and omitted by the Adaptation of Laws Order, 1950.

[8] Inserted by s. 2 of the I. T. and E. P. T. (Amendment) Act, 1947 (22 of 1947).

[9] "(Other than agricultural land)" omitted by s. 2 of the I. T. and B. P. T. (Amendment) Act, 1947 (44 of 1947). The amendment shall have effect in relation to all assessments to income-tax or super-tax for the year ending the 31st day of March, 1948, and subsequent years.

[10] Inserted, *ibid.*

[11] Inserted by s. 4 and Sch. of the Central Board of Revenue Act, 1924 (4 of 1924), and renumbered "4B" by s. 2 of the I. T. and E. P. T. (Amendment) Act, 1947 (22 of 1947).

[12][[13][(5A)] "company" means—

(*i*) any Indian company, or

(*ii*) any association, whether incorporated or not and whether Indian or non-Indian, which is or was assessable or was assessed as a company for the assessment for the year ending on the 31st day of March, 1948, or which is declared by general or special order of the Central Board of Revenue to be a company for the purposes of this Act;]

[14][(5B) "co-operative society" means a co-operative society registered under the Co-operative Societies Act, 1912 (II of 1912), or under any other law for the time being in force in any State for the registration of co-operative societies;]

[13][(6) "Director of Inspection" means a person appointed to be a Director of Inspection under section 5, and includes a person appointed to be an Additional Director of Inspection, a Deputy Director of Inspection or an Assistant Director of Inspection;]

[15][(6A) "dividend" includes—

(*a*) any distribution by a company of accumulated profits, whether capitalised or not, if such distribution entails the release by the company to its shareholders of all or any part of the assets of the company;

(*b*) any distribution by a company of debentures, [16][debenture-stock or deposit certificates in any form, whether with or without interest], to the extent to which the company possesses accumulated profits, whether capitalised or not;

[16a][(*c*) any distribution made to the shareholders of a company on its liquidation, to the extent to which the distribution is attributable to the accumulated profits of the company immediately before its liquidation, whether capitalised or not;]

[17]* * * * *

(*d*) any distribution by a company on the reduction of its capital to the extent to which the company possesses accumulated profits which arose after the end of the previous year ending next before the 1st day of April, 1933, whether such accumulated profits have been capitalised or not;

[18][(*e*) any payment by a company, not being a company in which the public are substantially interested within the meaning of section 23A, of any sum (whether as representing a part of the assets of the company or otherwise) by way of advance or loan to a shareholder or any payment by any such company on behalf or for the individual benefit of a shareholder, to the extent to which the company in either case possesses accumulated profits;

---

[12] Substituted by s. 8 of the Indian Finance Act, 1949 (14 of 1949). The new clause shall be deemed to be operative so as to apply in relation to all assessments subsequent to the assessment for the year ending on the 31st day of March, 1948, whether such assessments have, or have not, been made before the commencement of this Act.

[13] Clause (6) was renumbered as clause (5A), and the new clause (6) was inserted, by s. 2 of the Indian I. T. (Amendment) Act, 1953 (25 of 1953), with effect from the 1st April, 1952.

[14] Inserted by s. 3 of the Finance Act, 1955, with effect from the 1st April, 1955.

[15] Inserted by s. 2 of the Indian I. T. (Amendment) Act, 1939 (7 of 1939).

[16] Substituted for "or debenture-stock" by s. 3 of the Finance Act, 1955, with effect from the 1st April, 1955.

[16a] Substituted by s. 3 of the Finance Act, 1956, with effect from the 1st April, 1956.

[17] The proviso was omitted by s. 3 of the Finance Act, 1955, with effect from the 1st April, 1955.

[18] Substituted for the original provisos, *ibid.*, with effect from the 1st April, 1955.

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but "dividend" does not include—

(*i*) a distribution made in accordance with sub-clause (*c*) or sub-clause (*d*) in respect of any share issued for full cash consideration where the holder of the share is not entitled in the event of liquidation to participate in the surplus assets ;

(*ii*) any advance or loan made to a share-holder by a company in the ordinary course of its business where the lending of money is a substantial part of the business of the company ;

(*iii*) any dividend paid by a company which is set off by the company against the whole or any part of any sum previously paid by it and treated as a dividend within the meaning of clause (*e*), to the extent to which it is so set off ;

Explanation.—The expression "accumulated profits", wherever it occurs in this clause, shall not include capital gains arising before the 1st day of April, 1946, or after the 31st day of March, 1948, [18a][and before the 1st day of April, 1956] ;]]

[19][(6AA) "earned income" means any income of an assessee who is an individual, Hindu undivided family, unregistered firm or other association of persons not being a company, a local authority, a registered firm or a firm [19a][assessed] under clause (*b*) of sub-section (5) of section 23—

(*a*) which is chargeable under the head "Salaries" ; or

(*b*) which is chargeable under the head "Profits and gains of business, profession or vocation" where the business, profession or vocation is carried on by the assessee or, in the case of a firm, where the assessee is a partner actively engaged in the conduct of the business, profession or vocation ; or

(*c*) which is chargeable under the head "Other sources" if it is immediately derived from personal exertion or represents a pension or superannuation or other allowance given to the assessee in respect of his past services or the past services of any deceased person ;

and includes any such income which, though it is the income of another person, is included in the assessee's income under the provisions of this Act, but does not include any such income which is exempt from tax under sub-section (2) of section 14 or under a notification issued under section 60 ;]

[20][20][(6B)] "firm," "partner" and "partnership" have the same meanings respectively as in the [21][Indian Partnership Act, 1932 (IX of 1932)]] : [22][provided that the expression "partner" includes any person who being a minor has been admitted to the benefits of partnership ;]

[23][(6C) "income" includes—

(*i*) dividend ;

(*ii*) the value of any perquisite or profit in lieu of salary taxable under section 7 ;

[18a] Inserted by s. 2 of the Finance (No. 3) Act, 1956, with effect from the 1st April, 1957.

[19] Inserted by s. 2 of Ordinance No. 9 of 1945.

[19a] Substituted for "treated as registered" by s. 3 of the Finance Act, 1956, with effect from the 1st April, 1956.

[20] Inserted as clause (6A) by s. 2 of the Indian I.T. (Amendment) Act, 1930 (21 of 1930), and relettered "(6B)" by s. 2 of the Indian I.T. (Amendment) Act, 1939 (7 of 1939).

[21] Substituted for "Indian Contract Act, 1872," *ibid.* (7 of 1939).

[22] Added, *ibid.*

[23] Inserted, *ibid.*, and substituted by s. 3 of the Finance Act, 1955, with effect from the 1st April, 1955.

(*iii*) the value of any benefit or perquisite, whether convertible into money or not, obtained from a company either by a director or by any other person who has a substantial interest in the company (that is to say, who is concerned in the management of the business of the company, being the beneficial owner of shares, not being shares entitled to a fixed rate of dividend whether with or without a right to participate in profits, carrying not less than twenty per cent of the voting power), and any sum paid by any such company in respect of any obligation which but for such payment would have been payable by the director or other person aforesaid ;

(*iv*) any sum deemed to be profits under the second proviso to clause (*vii*) of sub-section (2) of section 10, and any sum deemed to be profits and gains under sub-section (2A) of that section or under sub-section (5) of section 12 ;

(*v*) any sum deemed to be profits and gains of business, profession or vocation under sub-section (5A) of section 10 ;

(*vi*) any capital gain chargeable under section 12B ;

(*vii*) the profits and gains of any business of insurance carried on by a mutual insurance association or by a co-operative society computed in accordance with rule 9 in the Schedule ;]

[24][(6D) "Inspecting Assistant Commissioner" means a person appointed to be an Inspecting Assistant Commissioner of Income-tax under section 5 ;]

[25][(6E) "Inspector of Income-tax" means a person appointed to be an Inspector of Income-tax under section 5 ;]

(7) "Income-tax Officer" means a person appointed to be an Income-tax Officer under section 5 ;

[1][(7A) "Indian company" means a company as defined in the Indian Companies Act, 1913 (VII of 1913), and includes a company formed and registered under any law in force in the merged territories or [1a][in the territories which immediately before the 1st November, 1956, were comprised in any Part B State] other than the State of Jammu and Kashmir before the extension thereto of the Indian Companies Act, 1913, and, in the case of the State of Jammu and Kashmir, any company formed and registered under any law in force in that State : provided that the registered office of the company in all cases is in the taxable territories ;]

(8) "Magistrate" means a Presidency Magistrate or a Magistrate of the first class, or a Magistrate of the second class specially empowered by [2][the Central Government] [3][or in the State of Jammu and Kashmir the State Government] to try offences against this Act ;

[4][(8A) "manager" and "managing agent" have the meanings respectively assigned to them in the Indian Companies Act, 1913 (VII of 1913) ;]

---

[24] Inserted, *ibid.* (7 of 1939).

[25] Inserted by s. 2 of the Indian I. T. (Amendment) Act, 1953 (25 of 1953), with effect from the 1st April, 1952.

[1] Substituted by s. 2 and Schedule of the Taxation Laws (Extension to Jammu and Kashmir) Act, 1954 (41 of 1954).

[1a] Substituted for "in any Part B State" by the Adaptation of Laws (No. 3) Order, 1956, with effect from the 1st November, 1956.

[2] Substituted for "the Local Government" by the Government of India (Adaptation of Indian Laws) Order, 1937.

[3] Inserted by s. 2 and Schedule of the Taxation Laws (Extension to Jammu and Kashmir) Act, 1954 (41 of 1954).

[4] Inserted by s. 3 of the Finance Act, 1955, with effect from the 1st April, 1955.

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(9) "person" includes a Hindu undivided family [5][and a local authority];

(10) "prescribed" means prescribed by rules made under this Act;

[6][(11) "previous year" means—

(*i*) in respect of any separate source of income, profits and gains—

(*a*) the twelve months ending on the 31st day of March next preceding the year for which the assessment is to be made, or, if the accounts of the assessee have been made up to a date within the said twelve months in respect of a year ending on any date other than the said 31st day of March, then, at the option of the assessee, the year ending on the date to which his accounts have been so made up:

Provided that where in respect of a particular source of income, profits and gains an assessee has once been assessed, or where in respect of a business, profession or vocation newly set up an assessee has exercised the option under sub-clause (*c*), he shall not, in respect of that source or, as the case may be, business, profession or vocation, exercise the option given by this sub-clause so as to vary the meaning of the expression "previous year" as then applicable to him except with the consent of the Income-tax Officer and upon such conditions as the Income-tax Officer may think fit to impose; or

(*b*) in the case of any person, business or company or class of person, business or company, such period as may be determined by the Central Board of Revenue or by such authority as the Board may authorise in this behalf; or

(*c*) where a business, profession or vocation has been newly set up in the financial year preceding the year for which assessment is to be made, the period from the date of the setting up of the business, profession or vocation to the 31st day of March next following or to the last day of the period determined under sub-clause (*b*), or, if the accounts of the assessee are made up in respect of a period not exceeding twelve months from the date of the setting up of the business, profession or vocation and the case is not one for which a period has been determined under sub-clause (*b*), then, at the option of the assessee, the period from the date of the setting up of the business, profession or vocation to the date to which his accounts have been so made up:

Provided that when the date to which the accounts have been so made up does not fall between the setting up of the business, profession or vocation and the next following 31st day of March inclusive, it shall be deemed that there is no previous year for the said assessment year and the previous year which would otherwise have been determined according to the option exercised by the assessee shall be deemed to be the previous year for the next succeeding assessment year;

---

[5] Inserted by s. 2 of the Indian I. T. (Amendment) Act, 1939 (7 of 1939).

[6] Substituted by s. 2 of the Indian I. T. (Amendment) Act, 1953 (25 of 1953), with effect from the 1st April, 1952.

(*ii*) in respect of the share of the income, profits and gains of a firm where the assessee is a partner in the firm and the firm has been assessed as such, the period as determined for the assessment of the income, profits and gains of the firm ;] **Div. 1 S. 2**

(12) "principal officer", used with reference to a local authority or a company or any other public body or [7][any] association, means—

(*a*) the secretary, treasurer, manager or agent of the authority, company, body or association, or

(*b*) any person connected with the authority, company, body, or association upon whom the Income-tax Officer has served a notice of his intention of treating him as the principal officer thereof;

(13) "public servant" has the same meaning as in the Indian Penal Code (XLV of 1860);

[8][(14) "registered firm" means a firm registered under the provisions of section 26A]; **(R. 2-6B.)**

[9][(14A) "taxable territories" means—

(*a*) as respects any period before the 15th day of August, 1947, the territories then referred to as British India, but including Berar,

(*b*) as respects any period after the 14th day of August, 1947, and before the 26th day of January, 1950, the territories for the time being comprised in the Provinces of India, but excluding the merged territory of Cooch-Behar,

(*c*) as respects any period after the 25th day of January and before the 1st day of April, 1950, the territories comprised in Part A States, but excluding the merged territory of Cooch-Behar, and the territories comprised in Part C States, but excluding the States of Manipur, Tripura and Vindhya Pradesh,

(*d*) as respects any period after the 31st day of March, 1950, and before the 13th day of April, 1950, the territory of India excluding the State of Jammu and Kashmir and the Patiala and East Punjab States Union, [10][*]

(*e*) as respects any period after the 12th day of April, 1950, the territory of India excluding the State of Jammu and Kashmir,

[10][(*f*) as respects any period after the 12th day of April, 1954, the whole of the territory of India :]

Provided that the taxable territories shall be deemed to include—

(*a*) the merged territories—

(*i*) as respects any period after the 31st day of March, 1949, for any of the purposes of this Act, and

(*ii*) as respects any period included in the previous year, for the purpose of making any assessment for the year ending on the 31st day of March, 1950, or for any subsequent year ; and

---

[7] Inserted by s. 2 of the Indian I. T. (Amendment) Act, 1924 (11 of 1924).

[8] Substituted by s. 2 of the Indian I. T. (Amendment) Act, 1930 (21 of 1930).

[9] Inserted by the Adaptation of Laws Order, 1950 ; and substituted by s. 3 of the Finance Act, 1950 (25 of 1950), with effect from the 1st April, 1950.

[10] "And" was omitted, and clause (*f*) was inserted, by s. 2 and Sch. of the Taxation Laws (Extension to Jammu and Kashmir) Act, 1954 (41 of 1954).

Div. 1 Ss. 2-3

(*b*) the whole of the territory of India excluding the State of Jammu and Kashmir—

(*i*) as respects any period, for the purposes of sections 4A and 4B,

(*ii*) as respects any period after the 31st day of March, 1950, for any of the purposes of this Act, and

(*iii*) as respects any period included in the previous year, for the purpose of making any assessment of the year ending on the 31st day of March, 1951, or for any subsequent year ;]

[11][(*c*) the whole of the territory of India—

(*i*) as respects any period, for the purposes of sections 4A and 4B,

(*ii*) as respects any period after the 31st day of March, 1954, for any of the purposes of this Act, and

(*iii*) as respects any period included in the previous year, for the purpose of making any assessment for the year ending on the 31st day of March, 1955, or for any subsequent year ;]

(15) "total income" means total amount of income, profits and gains [12][referred to in sub-section (1) of section 4] computed in the manner laid down in [13][this Act], and

[14]["total world income" includes all income, profits and gains wherever accruing or arising except income to which, under the provisions of sub-section (3) of section 4, this Act [15][does not apply and except any capital gain which is not includible in the total income of an assessee] ;]

(16) "unregistered firm" means a firm which is not a registered firm.

CHAPTER I

CHARGE OF INCOME-TAX

3. Charge of income-tax.—Where any [16][Central Act] enacts that income-tax shall be charged for any year at any rate or rates [17]* * * tax at that rate or those rates shall be charged for that year in accordance with, and subject to the provisions of, this Act in respect of [18][the total income] of the previous year of every [19][individual, Hindu undivided family, [20][company and local authority, and of every firm and other association of persons or the partners of the firm or the members of the association individually]].

---

[11] Inserted by s. 2 and Sch. of the Taxation Laws (Extension to Jammu and Kashmir) Act, 1954 (41 of 1954).

[12] Substituted for "from all sources to which this Act applies" by s. 2 of the Indian I. T. (Amendment) Act, 1939 (7 of 1939).

[13] Substituted for "section 16," *ibid.*

[14] Added, *ibid.*

[15] Substituted for "does not apply ; and" by s. 2 of the I. T. and E. P. T. (Amendment) Act, 1947 (22 of 1947).

[16] Substituted for "Act of the Central Legislature" by the Adaptation of Laws Order, 1950.

[17] "Applicable to the total income of an assessee" omitted by s. 3 of the Indian I. T. (Amendment) Act, 1939 (7 of 1939).

[18] Substituted for "all income, profits and gains," *ibid.*

[19] Substituted for "individual, company, firm and Hindu undivided family", with effect from 1st April, 1923, by ss. 3 and 11 of the Indian I. T. (Amendment) Act, 1924 (11 of 1924).

[20] Substituted for "company, firm and other association of individuals" by s. 3 of the Indian I. T. (Amendment) Act, 1939 (7 of 1939).

4. Application of Act.—[21][(1) Subject to the provisions of this Act, the total income of any previous year of any person includes all income, profits and gains from whatever source derived which— **Div. 1 S. 4**

(*a*) are received or are deemed to be received in [22][the taxable territories] in such year by or on behalf of such person, or

(*b*) if such person is resident in [22][the taxable territories] during such year,—

(*i*) accrue or arise or are deemed to accrue or arise to him in [23][the taxable territories] during such year, or

(*ii*) accrue or arise to him without [23][the taxable territories] during such year, or

(*iii*) having accrued or arisen to him without [23][the taxable territories] before the beginning of such year and after the 1st day of April, 1933, are brought into or received in [23][the taxable territories] by him during such year, or

(*c*) if such person is not resident in [23][the taxable territories] during such year, accrue or arise or are deemed to accrue or arise to him in [23][the taxable territories] during such year :

Provided that there shall not be included in any assessment for the year ending on the 31st day of March, 1940, both the amount of the income, profits and gains referred to in sub-clause (*ii*) of clause (*b*) and the amount of the income, profits and gains referred to in sub-clause (*iii*) of clause (*b*) but only the greater of these two amounts :

Provided further that, in the case of a person not ordinarily resident in [23][the taxable territories], income, profits and gains which accrue or arise to him without [23][the taxable territories] shall not be so included unless they are derived from a business controlled in or a profession or vocation set up in India or unless they are brought into or received in [23][the taxable territories] by him during such year :

Provided further that if in any year the amount of income accruing or arising without [23][the taxable territories] exceeds the amount brought into [23][the taxable territories] in that year, there shall not be included in the assessment of the income of that year so much of such excess as does not exceed four thousand five hundred rupees :

[24][Provided further that, in the case of a person who was not resident in the taxable territories in two out of the three years immediately preceding the previous year, so much of the income, profits and gains referred to in sub-clause (*iii*) of clause (*b*) as accrued or arose to him without India, shall not be included in his total income chargeable in any year subsequent to the year ending on the 31st day of March, 1951, whether his assessment for that year has or has not been completed before the commencement of the Indian Income-tax (Amendment) Act, 1953 :

Provided further that, in the case of a person resident in the taxable territories to whom the preceding proviso or paragraph 8 of the Part B States (Taxation Concessions) Order, 1950, does not apply, so much of the income, profits

[21] Sub-sections (1) and (2) were substituted by s. 4, *ibid.*

[22] Substituted for "British India" by the Adaptation of Laws Order, 1950.

[23] Substituted for "British India" by the Adaptation of Laws Order, 1950.

[24] Inserted by s. 3 of the Indian I. T. (Amendment) Act, 1953 (25 of 1953), with effect from the 1st April, 1952.

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and gains referred to in sub-clause (*iii*) of clause (*b*) as accrued or arose to him without India and were not chargeable under this Act, unless brought into or received in the taxable territories, shall not be included in his total income if—

[25][(*i*) such income, profits and gains are brought into or received in the taxable territories after the 2nd day of September, 1951, and the amount of income-tax, interest or penalty or other sum, if any, due from such person under this Act on the date of receipt of such income, profits and gains in the taxable territories is paid within three months of the receipt thereof in the taxable territories; and

(*ii*) in any case where such income, profits and gains are brought into or received in the taxable territories after the 2nd day of September, 1951, and before the 30th day of September, 1954, half of the amount of such income, profits and gains is invested within three months of the receipt thereof in the taxable territories in securities of the Central Government or of a State Government purchased through the Reserve Bank of India and kept with the said Bank for custody for a minimum period of two years.]]

Explanation 1.—Income, profits and gains accruing or arising without [1][the taxable territories] shall not be deemed to be received in or brought into [1][the taxable territories] within the meaning of this sub-section by reason only of the fact that they are taken into account in a balance sheet prepared in [1][the taxable territories].

Explanation 2.—Income which would be chargeable under the head "Salaries" if payable in [1][the taxable territories] [2][* * *] shall be deemed to accrue or arise in [1][the taxable territories] wherever paid if it is earned in [1][the taxable territories], [3][but any pension payable outside India to a person residing permanently outside India shall not be deemed to accrue or arise in the taxable territories, if the pension is payable to a person referred to in Article 314 of the Constitution or to a person, who, having been appointed before the 15th August, 1947, to be a Judge of the Federal Court or of a High Court within the meaning of the Government of India Act, 1935, continues to serve on or after the commencement of the Constitution as a Judge in India.]

Explanation 3.—A dividend paid [4][by an Indian company] without [1][the taxable territories] shall be deemed to be income accruing and arising in [1][the taxable territories] to the extent to which it has been paid out of profits subjected to income-tax in [1][the taxable territories].

[5][*Explanation* 4.—For the purposes of sub-clause (*iii*) of clause (*b*) of sub-section (1), income, profits and gains accruing, or arising, in any of the [6][merged

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[25] Substituted by s. 4 of the Finance Act, 1955, with effect from the 1st April, 1955.

[1] Substituted for "British India" by the Adaptation of Laws Order, 1950.

[2] "And not being pension payable without India" omitted by s. 3 of the I. T. and B. P. T. (Amendment) Act, 1948 (48 of 1948), with effect from the 30th March, 1948.

[3] Added by s. 3 of the Indian I. T. (Amendment) Act, 1953 (25 of 1953), with effect from the 1st April, 1952.

[4] Inserted by s. 8 of the Indian Finance Act, 1948 (20 of 1948).

[5] Inserted by s. 9 of the Taxation Laws (Extension to Merged States and Amendment) Act, 1949 (67 of 1949).

[6] Substituted for "merged States" and "merged State" by the Adaptation of Laws Order, 1950.

territories] [7][or any of the Part B States [8]* * *] before the beginning of a previous year and after the 1st day of April, 1933, shall be deemed to be brought into, or received in, [9][the taxable territories] during such year if, and only if, they are brought into, or received in, any part of [9][the taxable territories] other than that [6][merged territory] [7][or State] during such year.] **Div. 1 S. 4**

(2) For the purposes of sub-section (1), where a husband is not resident in [9][the taxable territories], remittances received by his wife resident in [9][the taxable territories] out of any part of his income which is not included in his total income shall be deemed to be income accruing in [9][the taxable territories] to the wife.]

(3) [10][Any income, profits or gains falling within the following classes shall not be included in the total income of the person receiving them]:

[11][(*i*) Subject to the provisions of clause (*c*) of sub-section (1) of section 16, any income derived from property held under trust or other legal obligation wholly for religious or charitable purposes, in so far as such income is applied or accumulated for application to such religious or charitable purposes as relate to anything done within the taxable territories, and in the case of property so held in part only for such purposes, the income applied or finally set apart for application thereto :

Provided that such income shall be included in the total income—

[11a][(*a*) if it is applied to religious or charitable purposes without the taxable territories, but in the following cases, namely :—

(i) where the property is held under trust or other legal obligation created before the commencement of the Indian Income-tax (Amendment) Act, 1953 (25 of 1953), and the income therefrom is applied to such purposes without the taxable territories ; and

(ii) where the property is held under trust or other legal obligation created after such commencement, and the income therefrom is applied without the taxable territories to charitable purposes which tend to promote international welfare in which India is interested, the Central Board of Revenue may, by general or special order, direct that it shall not be included in the total income ;]

(*b*) in the case of income derived from business carried on on behalf of a religious or charitable institution, unless the income is applied wholly for the purposes of the institution and either—

(i) the business is carried on in the course of the actual carrying out of a primary purpose of the institution, or

(ii) the work in connection with the business is mainly carried on by beneficiaries of the institution ;

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[7] Inserted by s. 3 of the Finance Act, 1950 (25 of 1950), with effect from the 1st April, 1950.

[8] "Other than the State of Jammu and Kashmir" omitted by s. 2 and Sch. of the Taxation Laws (Extension to Jammu and Kashmir) Act, 1954 (41 of 1954).

[9] Substituted for "British India" by the Adaptation of Laws Order, 1950.

[10] Substituted for "This Act shall not apply to the following classes of income" by s. 4 of the Indian I. T. (Amendment) Act, 1939 (7 of 1939).

[11] Substituted by s. 3 of the Indian I. T. (Amendment) Act, 1953 (25 of 1953), with effect from the 1st April, 1952.

[11a] Substituted by s. 4 of the Finance Act, 1955, with effect from the 1st April, 1955.

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(*c*) if it is applied to purposes other than religious or charitable purposes or ceases to be accumulated or set apart for application thereto in which case it shall be deemed to be the income of the year in which it is so applied or ceases to be so accumulated or set apart.]

(*ii*) Any income of a religious or charitable institution derived from voluntary contributions and applicable solely to religious or charitable purposes.

(*iii*) The income of local authorities [12][except income from a trade or business carried on by the authority so far as that income is not income arising from the supply of a commodity or service within its own jurisdictional area.]

(*iv*) Interest on securities which are held by, or are the property of, any Provident Fund to which the Provident Funds Act, [13][1925 (XIX of 1925)], applies, [14][* * *] [15][and any capital gains of the Fund arising from the sale, exchange or transfer of such securities].

(*v*) [16][* * * * *]

[16a][(*vi*) Any special allowance or benefit, not being in the nature of an entertainment allowance or other perquisite within the meaning of sub-section (1) of section 7, specifically granted to meet expenses wholly and necessarily incurred in the performance of the duties of an office or employment of profit, to the extent to which such expenses are actually incurred for that purpose.

(*vi-a*) Subject to such conditions as the Central Government may prescribe, passage moneys or the value of any free or concessional passage received by or due to any person, not being a citizen of India, from his employer for himself, his wife and children in connection with his proceeding on home leave out of India.]

(*vii*) Any receipts [15][not being capital gains chargeable according to the provisions of section 12B and] not being receipts arising from business or the exercise of a profession, vocation or occupation, which are of a casual and non-recurring nature or are not by way of addition to the remuneration of an employee.

(*viii*) Agricultural income.

[17][(*ix*) Any income received by trustees on behalf of a recognised provident fund as defined in clause (*a*) of section 58A].

[18][(*x*) Any income received—

[19][(*a*) by the Ruler of an Indian State as his privy purse under Article 291 of the Constitution ;]

(*b*) by a Consul General, Consul, Vice-Consul or Consular Agent of a foreign State, as remuneration from such State for service in such capacity ;

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[12] Added by s. 4 of the Indian I. T. (Amendment) Act, 1939 (7 of 1939).

[13] Substituted for "1897," *ibid.*

[14] "Or any Provident Insurance Society to which the Provident Insurance Societies Act, 1912, is or but for an exemption under that Act would be applicable" omitted by s. 4 of the Indian I. T. (Amendment) Act, 1924 (11 of 1924).

[15] Added by s. 3 of the I. T. and E. P. T. (Amendment) Act, 1947 (22 of 1947).

[16] Omitted by s. 4 of the Indian I. T. (Amendment) Act, 1939 (7 of 1939).

[16a] Substituted by s. 4 of the Finance Act, 1955, with effect from the 1st April, 1955.

[17] Added by s. 2 of the Indian I. T. (Provident Funds Relief) Act, 1929 (12 of 1929).

[18] Clauses (*x*) and (*xi*) were added by s. 3 of the Indian I. T. (Amendment) Act, 1941 (23 of 1941).

[19] Substituted by the Adaptation of Laws Order, 1950.

(*c*) by a person employed by the consulate of a foreign State, not being a [20][citizen of India], as remuneration from such foreign State for service in such capacity;

(*d*) by a Trade Commissioner or other official representative in [21][the taxable territories] of the Government of [22][any part of the Commonwealth] or of a foreign Government, as his official salary, if the official salary of the corresponding officials, if any, of the Central Government resident for similar purposes in the country concerned enjoy a similar exemption in that country;

(*e*) by a member of the staff of a Trade Commissioner or official representative referred to in sub-clause (*d*), as his official salary, when such member is a subject of the country represented, and the country represented has made corresponding provisions for similar exemptions in the case of members of the staff of the corresponding officials of the Central Government.

(*xi*) With effect from the 2nd day of September, 1939, the income chargeable under the head "Salaries" of a Nepalese member of the Nepalese Military Force serving with His Majesty's Forces, [23][or, after the commencement of the Constitution, with the Armed Forces of the Union] or of any member of an Indian State Force so serving, and any other income accruing or arising without [21][the taxable territories] which is received in or brought into [21][the taxable territories] by any such member while the Force to which he belongs is serving with His Majesty's Forces [23][or, after the commencement of the Constitution, with the Armed Forces of the Union].]

[24][(*xii*) Any income chargeable under the head "Income from property" in respect of a building the erection of which is begun and completed between the 1st day of April 1946 and the 31st day of March [25][1956] (both dates inclusive), for a period of two years from the date of such completion.]

[1][(*xiii*) Any income of a scientific research association which is, for the time being, approved for the purposes of clause (*xiii*) of sub-section (2) of section 10 where the income is applied solely to the purposes of that association and accrues or arises after the 31st day of March, 1949.]

[2][(*xiv*) Any income received by an employee of a foreign enterprise, not engaged in any trade or business in the taxable territories, as remuneration for

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[20] Substituted for "British subject or the subject of an Indian State", *ibid.*

[21] Substituted for "British India", *ibid.*

[22] Substituted for "any other part of the British Empire", *ibid.*

[23] Inserted, *ibid.*

[24] Inserted by s. 2 of the Indian I. T. (Amendment) Act, 1946 (8 of 1946).

[25] "1952" was substituted for "1950" by s. 3 of the Finance Act, 1950 (25 of 1950), with effect from the 1st April, 1950; "1954" was substituted for "1952" by s. 3 of the Indian I. T. (Amendment) Act, 1953 (25 of 1953), with effect from the 1st April, 1952; and "1956" was substituted for "1954" by s. 3 of the Finance Act, 1954 (17 of 1954), with effect from the 1st April, 1954.

[1] Added by s. 9 of the Taxation Laws (Extension to Merged States and Amendment) Act, 1949 (67 of 1949).

[2] The original clauses (*xiv*), (*xv*), (*xvi*), (*xvii*), (*xviii*) and (*xix*) were inserted by s. 3 of the Indian I. T. (Amendment) Act, 1953 (25 of 1953). The amendment shall be deemed to be operative in relation to all assessments for any year whether such assessments have or have not been completed before the commencement of the Indian Income-tax (Amendment) Act, 1953.

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services rendered by him during the course of his stay in the taxable territories, where such stay does not exceed in the aggregate a period of ninety days in any year and where such remuneration is not liable to be deducted from the income, profits and gains chargeable under this Act.

[2a][(*xiv-a*) Any income chargeable under the head "Salaries" received by or due to any person, not being a citizen of India, during the financial year in which he arrived in India and the financial year next following as remuneration for services rendered by him as a technician in the employment of Government or of a local authority or of any corporation set up under any special law or in any business carried on in India, in any case where such person was not resident therein in any of the four financial years immediately preceding the financial year in which he arrived in India :

Provided that where, during the financial year of arrival and the year next following, such person had been in India for a period of, or for periods amounting in all to, three hundred and sixty-five days or more, only so much of the income aforesaid as is received by or due to him for a period of three hundred and sixty-five days in all commencing from the date of his arrival shall not be included in his total income :

Provided further that in the case of a person referred to in this clause whose contract of service was approved by the Central Government before the commencement of his service this clause shall have effect as if for the words "and the financial year next following" the words "and the two financial years next following" had been substituted and as if the proviso immediately preceding had been omitted.

Explanation.—"Technician" means, and shall always be deemed to have meant, a person having specialised knowledge in industrial arts and sciences and having experience in industrial practice who is employed in India in a capacity in which such specialised knowledge and experience are actually utilised.]

(*xv*) Any income received as remuneration, whether directly or indirectly, from the Government of a foreign State by any person who is assigned to duties in India in connection with any co-operative technical assistance programmes and projects in accordance with an agreement entered into by the Central Government and the Government of that foreign State (the terms whereof provide for the exemption given by this clause) and any other income of such person or of the members of his family accompanying him to India, which accrues or arises without the taxable territories, and is not deemed to accrue or arise in the taxable territories, upon which such person or the members of his family are required to pay any income or social security tax to the Government of that foreign State.

(*xvi*) Any income from interest on, or from premium on the redemption of, any bonds issued by the Central Government under a loan agreement between the Central Government and the International Bank for Reconstruction and Development, or by any industrial undertaking or financial corporation in India under a loan agreement with the said Bank which is guaranteed by the Central Government, except where the holder of such bond is a person resident in the taxable territories.

[2a] Inserted by s. 4 of the Finance Act, 1955, and substituted by s. 4 of the Finance Act, 1956, with effect from the 1st April, 1955.

[2b][(*xvii*) Interest on the [2c][* * *] 10 Year Treasury Savings Deposit Certificates or the monthly payments on the 15 Year Annuity Certificates issued by or under the authority of the Central Government for an amount not exceeding the maximum amount which is permitted to be invested therein. **Div. 1 S. 4**

(*xvii-a*) Interest on deposits in Post Office Savings Bank, Post Office Cash Certificates, Post Office National Savings Certificates and Post Office [2d][* * *] National Plan Certificates for amounts not exceeding in each case the maximum amount which is permitted to be deposited or invested therein.]

[2e][(*xvii-b*) Interest payable—

(*i*) by Government or a local authority on moneys borrowed by it from sources outside India from any person not resident in India or from any institution established outside India;

(*ii*) by an industrial undertaking in India on moneys borrowed by it under a loan agreement entered into with any such financial institution in a foreign country as may be approved in this behalf by the Central Government by general or special order;

(*iii*) by an industrial undertaking in India on any moneys borrowed or debt incurred by it in a foreign country in respect of the purchase outside India of capital plant and machinery in any case where the loan or debt is approved by the Central Government, having regard to its terms generally and in particular, to the terms of its repayment.]

(*xviii*) Interest on securities held by the Issue Department of the Central Bank of Ceylon constituted under the Ceylon Monetary Law Act, 1949.

(*xix*) Any daily allowance received by any person, by reason of his membership of the Dominion Legislature or of the Constituent Assembly or of Parliament or of any Provincial or State Legislature or of any Committee thereof.]

[3][(*xx*) Any income from interest payable without the taxable territories on a loan issued for public subscription before the 1st day of April, 1938, where such interest is payable to a person not resident in the taxable territories, but such income shall not be excepted from being included in his total world income notwithstanding anything in clause (15) of section 2.]

[2b] Substituted for the original cl. (*xvii*) by s. 4 of the Finance Act, 1955, with effect from the 1st April, 1955.

[2c] "3½ per cent" omitted by s. 3 of the Finance (No. 2) Act, 1957. The amendment, for the purposes of making any deduction of income-tax under sub-section (2) or (2B) of section 18 shall have effect on and from the 1st April, 1957, and for other purposes shall have effect on and from the 1st April, 1958.

[2d] "10 year" omitted, *ibid.* The amendment, for the purposes of making any deduction of income-tax under sub-section (2) or (2B) of section 18 shall have effect on and from the 1st April, 1957, and for other purposes shall have effect on and from the 1st April, 1958.

[2e] Inserted, *ibid.* The amendment, for the purposes of making any deduction of income-tax under sub-section (2) or (2B) of section 18 shall have effect on and from the 1st April, 1957, and for other purposes shall have effect on and from the 1st April, 1958.

[3] Inserted by s. 3 of the Finance Act, 1954 (17 of 1954), with effect from the 1st April, 1954.

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[3a][(*xxi*) Any income of a member of a Scheduled Tribe, as defined in clause (25) of Article 366 of the Constitution, residing in any area specified in Part A or Part B of the table appended to paragraph 20 of the Sixth Schedule to the Constitution, provided that such member is not in the service of Government.

(*xxii*) Any payment made, whether in cash or in kind, by the Central Government or any State Government in pursuance of gallantry awards instituted or approved by the Central Government.]

In this sub-section "charitable purpose" includes relief of the poor, education, medical relief, and the advancement of any other object of general public utility, [4][but nothing contained in clause (*i*) [5][* * *] or clause (*ii*) shall operate to exempt from the provisions of this Act that part of the [6][income from property held under a trust or other legal obligation for private religious purposes] which does not enure for the benefit of the public.]

[7][**4A. Residence in [8][the taxable territories].**—For the purposes of this Act—

(*a*) any individual is resident in [8][the taxable territories] in any year if he—

(*i*) is in [8][the taxable territories] in that year for a period amounting in all to one hundred and eighty-two days or more ; or

(*ii*) maintains or has maintained for him a dwelling place in [9][the taxable territories] for a period or periods amounting in all to one hundred and eighty-two days or more in that year, and is in [9][the taxable territories] for any time in that year ; or

(*iii*) having within the four years preceding that year been in [9][the taxable territories] for a period of or for periods amounting in all to three hundred and sixty-five days or more, is in [9][the taxable territories] for any time in that year otherwise than on an occasional or casual visit ; [10][or]

[10][(*iv*) is in [9][the taxable territories] for any time in that year and the Income-tax Officer is satisfied that such individual having arrived in [9][the taxable territories] during that year is likely to remain in [9][the taxable territories] for not less than three years from the date of his arrival ;]

(*b*) a Hindu undivided family, firm or other association of persons is resident in [9][the taxable territories] unless the control and management of its affairs is situated wholly without [9][the taxable territories] ; and

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[3a] Inserted by s. 4 of the Finance Act, 1955. The amendment is not only effective as from the 1st April, 1955, but also applies to all assessments for any earlier year whether such assessments have been completed or not. (See s. 20 of the Finance Act, 1955.)

[4] Added by s. 4 of the Indian I. T. (Amendment) Act, 1939 (7 of 1939).

[5] "Clause (*ia*)" omitted by s. 3 of the Indian I. T. (Amendment) Act, 1953 (25 of 1953), with effect from the 1st April, 1952.

[6] Substituted for "income of a private religious trust", *ibid.*, with effect from the 1st April, 1952.

[7] Sections 4A and 4B were inserted by s. 5 of the Indian I. T. (Amendment) Act, 1939 (7 of 1939).

[8] Substituted for "British India" by the Adaptation of Laws Order, 1950.

[9] Substituted for "British India" by the Adaptation of Laws Order, 1950.

[10] Added by s. 4 of the Indian I. T. (Amendment) Act, 1941 (23 of 1941). Effect to this amendment shall not be given in the making of any assessment for any year before the year ending the 31st March, 1943.

(*c*) a company is resident in [11][the taxable territories] in any year (a) if the control and management of its affairs is situated wholly in [11][the taxable territories] in that year, or (b) if its income arising in [11][the taxable territories] in that year exceeds its income arising without [11][the taxable territories] in that year [12][account not being taken in either case of income chargeable under the head "Capital gain".]

4B. Ordinary residence.—For the purposes of this Act—

(*a*) an individual is "not ordinarily resident" in [11][the taxable territories] in any year if he has not been resident in [11][the taxable territories] in nine out of the ten years preceding that year or if he has not during the seven years preceding that year been in [11][the taxable territories] for a period of, or for periods amounting in all to, more than two years;

(*b*) a Hindu undivided family is deemed to be ordinarily resident in [11][the taxable territories] if its manager is ordinarily resident in [11][the taxable territories];

(*c*) a company, firm or other association of persons is ordinarily resident in [11][the taxable territories] if it is resident in [11][the taxable territories].]

CHAPTER II

INCOME-TAX AUTHORITIES

[13][**5. Income-tax authorities.**—(1) There shall be the following classes of income-tax authorities for the purposes of this Act, namely :—

(*a*) the Central Board of Revenue,

[14][(*aa*) Directors of Inspection,]

(*b*) Commissioners of Income-tax,

(*c*) Assistant Commissioners of Income-tax who may be either Appellate Assistant Commissioners of Income-tax or Inspecting Assistant Commissioners of Income-tax,

(*d*) Income-tax Officers,

[14][(*e*) Inspectors of Income-tax.]

[14][(1A) The Central Government may appoint as many Directors of Inspection as it thinks fit, and Directors of Inspection shall, subject to the control of the Central Board of Revenue, perform such functions of any other Income-tax authority as may be assigned to them by the Central Government.]

[15][(2) The Central Government may appoint as many Commissioners of Income-tax as it thinks fit and they shall perform their functions in respect of

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[11] Substituted for "British India" by the Adaptation of Laws Order, 1950.

[12] Added by s. 4 of the I.T. and E. P. T. (Amendment) Act, 1947 (22 of 1947).

[13] Substituted for the original section by s. 6 of the Indian I. T. (Amendment) Act, 1939 (7 of 1939).

[14] Inserted by s. 4 of the Indian I. T. (Amendment) Act, 1953 (25 of 1953), with effect from the 1st April, 1952.

[15] Substituted, *ibid.*, with effect from the 1st April, 1952.

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such areas or of such persons or classes of persons or of such incomes or classes of incomes or of such cases or classes of cases as the Central Board of Revenue may direct, and where such directions have assigned to two or more Commissioners of Income-tax the same area or the same persons or classes of persons or the same income or classes of incomes or the same cases or classes of cases, they shall have concurrent jurisdiction subject to any orders which the Central Board of Revenue may make for the distribution and allocation of work to be performed.

(3) The Central Government may appoint as many Appellate or Inspecting Assistant Commissioners of Income-tax and Income-tax Officers of Class I service as it thinks fit, and the Commissioner may, subject to the rules and orders of the Central Government regulating the conditions of service of persons in public services and posts, appoint as many Income-tax Officers of Class II service and Inspectors of Income-tax as may, from time to time, be sanctioned by the Central Government.

(3A) Subject to the rules and orders of the Central Government regulating the conditions of service of persons in public services and posts, an Income-tax authority may appoint such executive or ministerial staff as may be necessary to assist it in the execution of its functions.]

(4) Appellate Assistant Commissioners of Income-tax shall be under the direct control of the Central Board of Revenue and shall perform their functions in respect of such persons or classes of persons [16][or of such incomes or classes of income or] in respect of such areas as the Central Board of Revenue may direct, [17][and, where such directions have assigned to two or more Appellate Assistant Commissioners of Income-tax, the same persons or classes of persons or the same incomes or classes of income or the same area] in accordance with any orders which the Central Board of Revenue may make for the distribution and allocation of the work to be performed.

(5) Inspecting Assistant Commissioners of Income-tax and Income-tax Officers shall perform their functions in respect of such persons or classes of persons [18][or of such incomes or classes of income or] in respect of such areas as the Commissioner of Income-tax may direct, [19][and, where such directions have assigned to two or more Inspecting Assistant Commissioners of Income-tax or Income-tax Officers, the same persons or classes of persons or the same incomes or classes of income or the same area] in accordance with any orders which the Commissioner of Income-tax may make for the distribution and allocation of the work to be performed. The Commissioner may, [20][* * *] by general or special order in writing, direct that the powers conferred on the Income-tax Officer and the Appellate Assistant Commissioner by or under this

[16] Substituted for "and of such incomes or classes of income and" by s. 3 of the Indian I. T. (Amendment) Act, 1940 (40 of 1940), with effect from 1st April, 1939.

[17] Substituted for "and, where two or more Appellate Assistant Commissioners have been appointed for the same area," *ibid.*, with effect from 1st April, 1939.

[18] Substituted for "and of such incomes or classes of income and" by s. 3 of the Indian I. T. (Amendment) Act, 1940 (40 of 1940), with effect from 1st April, 1939.

[19] Substituted for "and, where two or more Inspecting Assistant Commissioners of Income-tax or Income-tax Officers have been appointed for the same area," *ibid.*, with effect from 1st April, 1939.

[20] "With the previous approval of the Central Board of Revenue" omitted by s. 4 of the Indian I. T. (Amendment) Act, 1953 (25 of 1953), with effect from the 1st April, 1952.

Act shall, in respect of any specified case or class of cases, be exercised by the Inspecting Assistant Commissioner and the Commissioner, respectively, and, for the purposes of any case in respect of which such order applies, references in this Act or in any rules made hereunder to the Income-tax Officer and the Appellate Assistant Commissioner shall be deemed to be references to the Inspecting Assistant Commissioner and the Commissioner, respectively. **Div. 1 S. 5**

[21][(5A) Inspectors of Income-tax shall perform such functions in the execution of this Act as are assigned to them by the Income-tax Officer or other Income-tax authority under whom they are appointed to work, and shall be subordinate to such Officer or authority.]

(6) The Central Board of Revenue may, by notification in the official Gazette, empower Commissioners of Income-tax, Appellate or Inspecting Assistant Commissioners of Income-tax and Income-tax Officers to perform such functions in respect of such classes of persons or such classes of income [22][or such area] as may be specified in the notification, and thereupon the functions so specified shall cease [23][* * *] to be performed in respect of the specified classes of persons or classes of income [24][or area] by the other authorities appointed under sub-sections (2) and (3).

[25][(7) For the purposes of this Act,—

(*i*) Inspecting Assistant Commissioners shall be subordinate to the Director of Inspection and to the Commissioner of Income-tax within whose jurisdiction they perform their functions;

(*ii*) Income-tax Officers shall be subordinate to the Director of Inspection, the Commissioner of Income-tax, and the Inspecting Assistant Commissioner of Income-tax within whose jurisdiction they perform their functions.]

[1][(7A) The Commissioner of Income-tax may transfer any case from one Income-tax Officer subordinate to him to another, and the Central Board of Revenue may transfer any case from any one Income-tax Officer to another. Such transfer may be made at any stage of the proceedings, and shall not render necessary the reissue of any notice already issued by the Income-tax Officer from whom the case is transferred.]

[1a][*Explanation.*—In this sub-section "case" in relation to any person whose name is specified in the order of transfer means all proceedings under this Act in respect of any year which may be pending on the date of the transfer, and includes all proceedings under this Act which may be commenced after the date of the transfer in respect of any year.]

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[21] Inserted, *ibid.*, with effect from the 1st April, 1952.

[22] Substituted for "and for such area" by s. 3 of the Indian I. T. (Amendment) Act, 1940 (40 of 1940), with effect from 1st April, 1939.

[23] "Within the specified area" omitted, *ibid.* The amendment has effect from 1st April, 1939.

[24] Inserted, *ibid.*, with effect from 1st April, 1939.

[25] Substituted by s. 4 of the Indian I. T. (Amendment) Act, 1953 (25 of 1953), with effect from the 1st April, 1952.

[1] Inserted by s. 3 of the Indian I. T. (Amendment) Act, 1940 (40 of 1940).

[1a] The Explanation was added by the Indian Income-tax (Amendment) Act, 1956 (26 of 1956), and shall be deemed always to have been in the Act.

Div. 1 Ss. 5-5A

[2][(7B) The Director of Inspection, the Commissioner or the Inspecting Assistant Commissioner, as the case may be, may issue such instructions as he thinks fit for the guidance of any Income-tax Officer subordinate to him in the matter of any assessment, and for the purposes of making any inquiry under this Act (which he is hereby empowered to do), the Director of Inspection, the Commissioner and the Inspecting Assistant Commissioner shall have all the powers that an Income-tax Officer has under this Act in relation to the making of inquiries.

(7C) Whenever in respect of any proceeding under this Act an Income-tax authority ceases to exercise jurisdiction and is succeeded by another who has and exercises jurisdiction, the Income-tax authority so succeeding may continue the proceeding from the stage at which the proceeding was left by his predecessor :

Provided that the assessee concerned may demand that before the proceeding is so continued the previous proceeding or any part thereof be re-opened or that before any order for assessment is passed against him he be re-heard :

Provided further that in computing the period of limitation for the purposes of sub-section (3) of section 34, the time taken in re-opening the whole or any part of the proceeding or in giving an opportunity to the assessee to be re-heard under the preceding proviso shall be excluded.]

(8) All Officers and persons employed in the execution of this Act shall observe and follow the orders, instructions and directions of the Central Board of Revenue:

Provided that no such orders, instructions or directions shall be given so as to interfere with the discretion of the Appellate Assistant Commissioner in the exercise of his appellate functions.]

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[3][CHAPTER II-A

APPELLATE TRIBUNAL]

[4][**5A. The Appellate Tribunal.**—(1) The Central Government shall appoint an Appellate Tribunal consisting of [5][as many persons as it thinks fit] to exercise the functions conferred on the Appellate Tribunal by this Act.

(2) The Appellate Tribunal shall consist [6][* * *] of judicial members and accountant members as hereinafter defined.

[7][* * *]

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[2] Inserted by s. 4 of the Indian I. T. (Amendment) Act, 1953 (25 of 1953), with effect from the 1st April, 1952.

[3] Inserted by s. 4 of the Indian I. T. (Amendment) Act, 1940 (40 of 1940).

[4] Inserted by s. 85 of the Indian I. T. (Amendment) Act, 1939 (7 of 1939).

[5] Substituted for "not more than ten persons" by s. 10 of the Taxation Laws (Extension to Merged States and Amendment) Act, 1949 (67 of 1949).

[6] "Of an equal number" omitted, *ibid.*

[7] The proviso was omitted by s. 5 of the Indian I. T. (Amendment) Act, 1953 (25 of 1953), with effect from the 1st April, 1952.

(3)[8][A judicial member shall be a person who has for at least ten years either held a civil judicial post or been in practice as an advocate of a High Court, and an accountant member shall be a person who has for at least ten years been in the practice of accountancy as a chartered accountant under the Chartered Accountants Act, 1949 (XXXVIII of 1949), or as a registered accountant under any law formerly in force or partly as a registered accountant and partly as a chartered accountant :] Div. 1 S. 5A

Provided that the Central Government may appoint as an accountant member of the Tribunal any person not possessing the qualifications required by this sub-section, if it is satisfied that he has qualifications and has had adequate experience of a character which render him suitable for appointment to the Tribunal.

(4) The Central Government shall [9][ordinarily] appoint a judicial member of the Tribunal to be President thereof.

(5) The powers and functions of the Appellate Tribunal may be exercised and discharged by Benches constituted from members of the Tribunal by the President of the Tribunal.

[10][(6) Save as hereinafter provided a Bench shall consist of one judicial member and one accountant member :

Provided that the President or any other member of the Tribunal specially authorised in this behalf by the Central Government may, sitting singly, dispose of any case which has been allotted to the Bench of which he is a member and which pertains to an assessee whose total income as computed by the Income-tax Officer in the case does not exceed Rs. 15,000 :

Provided further that the President may, for the disposal of any particular case, constitute a special Bench consisting either of two judicial members and one accountant member or of one judicial member and two accountant members.]

(7) If the members of a Bench differ in opinion on any point the point shall be decided according to the opinion of the majority, if there is a majority ; but if the members are equally divided, they shall state the point or points on which they differ, and the case shall be referred by the President of the Tribunal for hearing on such point or points by one or more of the other members of the Tribunal, and such point or points shall be decided according to the opinion of the majority of the members of the Tribunal who have heard the case, including those who first heard it.

(8) Subject to the provisions of this Act, the Appellate Tribunal shall have power to regulate its own procedure, and the procedure of Benches of the Tribunal in all matters arising out of the discharge of its functions, including the [11][places] at which the Benches shall hold their sittings.]

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[8] Substituted, *ibid.*, with effect from the 1st April, 1952.

[9] Inserted, *ibid.*, with effect from the 1st April, 1952.

[10] Substituted by s. 10 of the Taxation Laws (Extension to Merged States and Amendment) Act, 1949 (67 of 1949).

[11] Substituted for "place" by s. 4 of the Indian I. T. (Amendment) Act, 1940 (40 of 1940).

CHAPTER III

TAXABLE INCOME

Div. 1 Ss. 6-7

6. Heads of income chargeable to income-tax.—Save as otherwise provided by this Act, the following heads of income, profits and gains, shall be chargeable to income-tax in the manner hereinafter appearing, namely :—

(*i*) Salaries.

(*ii*) Interest on securities.

[12][(*iii*) Income from property.

(*iv*) Profits and gains of business, profession or vocation.

(*v*) Income from other sources.]

[13][(*vi*) Capital gains.]

[14][**7. Salaries.**—(1) The tax shall be payable by an assessee under the head "Salaries" in respect of any salary or wages, any annuity, pension or gratuity, and any fees, commissions, perquisites or profits in lieu of, or in addition to, any salary or wages, which are allowed to him by or are due to him, whether paid or not, from, or are paid by or on behalf of, the Government, a local authority, a company or any other public body or association, or any private employer; and for the purposes of this sub-section advances by way of loan or otherwise of income chargeable under this head shall be deemed to be salary due on the date when the advance is received :

Provided that the tax shall not be payable in respect of any sum deducted from the salary payable by or on behalf of the Government to any individual, being a sum deducted in accordance with the conditions of his service, for the purpose of securing to him a deferred annuity or making provision for his wife or children provided that the sum so deducted shall not exceed [14a][one-fifth] of the salary:

Provided further that where tax is deductible at the source under section 18, the assessee shall not be called upon to pay the tax himself unless he has received the salary without such deduction.

Explanation 1.—For the purposes of this section, "perquisite" includes—

(*i*) the value of rent-free accommodation or the value of any concession in the matter of rent respecting any accommodation provided to the assessee by his employer;

(*ii*) the value of any benefit or amenity granted or provided by a company free of cost or at concessional rate to an employee who is a director thereof or who is substantially interested in the company within the meaning of sub-clause (*iii*) of clause (6C) of section 2 ;

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[12] Substituted for the original clauses (*iii*), (*iv*), (*v*) and (*vi*) by s. 7 of the Indian I. T. (Amendment) Act, 1939 (7 of 1939).

[13] Added by s. 5 of the I. T. and E. P. T. (Amendment) Act, 1947 (22 of 1947).

[14] Substituted by s. 5 of the Finance Act, 1955. The amendment shall, for the purposes of making any deduction of income-tax under sub-sec. (2) or (2B) of sec. 18 of the Income-tax Act, have effect on and from the 1st April, 1955, and shall, for other purposes, have effect on and from the 1st April, 1956.

[14a] Substituted for "one-sixth" by s. 5 of the Finance Act, 1956, with effect from the 1st April, 1956.

(*iii*) the value of any benefit or amenity granted or provided to an assessee (not being an assessee to whom the provisions of clause (*ii*) apply) by his employer free of cost or at concessional rate in any case where the income of the assessee under the head "Salaries" exclusive of the value of all benefits or amenities not provided for by way of monetary payment exceeds eighteen thousand rupees; **Div. 1 S. 7**

(*iv*) any sum paid by the employer in respect of any obligation which but for such payment would have been payable by the assessee; and

(*v*) any sum payable by the employer, whether directly or through a fund to which the provisions of Chapters IX-A and IX-B do not apply, to effect an assurance on the life of the assessee or in respect of a contract for an annuity on the life of the assessee.

Explanation 2.—For the purposes of this section, "profits in lieu of salary" includes,—

(*i*) the amount of any compensation due to or received by an assessee from his employer or former employer at or in connection with, the termination of his employment, whether solely as compensation for loss of employment or for any other consideration;

(*ii*) any payment due to or received by an assessee from an employer or former employer or from a provident or other fund, to the extent to which it does not consist of contributions by the assessee or interest on such contributions:

Provided that nothing herein contained shall render liable to income-tax any payment of death *cum* retirement gratuity received after the 16th day of April, 1950, under the Revised Pension Rules of the Central Government or under any similar scheme of a State Government or any payment from a provident fund to which the Provident Funds Act, 1925 (XIX of 1925), applies, or any payment from a recognised provident fund within the meaning of Chapter IX-A if such payment is exempted from payment of income-tax under the provisions of Chapter IX-A, or any payment from an approved superannuation fund within the meaning of Chapter IX-B made on the death of a beneficiary or in lieu of or in commutation of an annuity, or by way of refund of contributions on the death of a beneficiary or on his leaving the employment in connection with which the fund is established.

(2) The income chargeable under this section shall be computed after making the following deductions, namely:—

(*i*) any amount not exceeding five hundred rupees, expended by the assessee on the purchase of books and other publications necessary for the purpose of his duties;

(*ii*) in respect of any allowance in the nature of an entertainment allowance specifically granted to the assessee by his employer, a sum equal to one-fifth of his remuneration (exclusive of any special allowance, benefit or other perquisites) or seven thousand five hundred rupees, whichever is less, except in any case where the assessee was not in receipt of such entertainment allowance regularly from his present employer before the year beginning on the 1st day of April 1955;

Div. 1 Ss. 7-8

[14b][(*ii-a*) in respect of any conveyance owned by the assessee and used by him for the purposes of his employment, such sum as the Income-tax Officer may estimate in respect of such use as representing the expenditure incurred by the assessee in its maintenance and as representing its normal wear and tear :

Provided that this clause shall not apply in any case where the assessee is in receipt of a conveyance allowance, whether as such or as part of his salary ;]

(*iii*) any amount actually expended by the assessee, which he, by the conditions of his service, is required to spend out of his remuneration (exclusive of the allowance referred to in sub-clause (*ii*)), wholly, necessarily and exclusively in the performance of his duties.]

8. Interest on securities.—The tax shall be payable by an assessee under the head "Interest on securities" in respect of the interest receivable by him on any security of the [15][Central Government] or of a [16][State] Government, or on debentures or other securities for money issued by or on behalf of a local authority or a company :

[17][Provided that no income-tax shall be payable under this section by the assessee [18][in respect of any reasonable sum expended by him for the purpose of realising such interest]] [19][or in respect of any interest payable on money borrowed for the purpose of investment in the securities by the assessee except interest chargeable under this Act which is payable without [20][the taxable territories], not being interest on a loan issued for public subscription before the 1st day of April, 1938, unless in respect of interest which is so chargeable tax has been paid or deducted under section 18, or unless there is a person in [20][the taxable territories] who may be appointed an agent under section 43 in respect of such interest] :

Provided [17][further] that no income-tax shall be payable on the interest receivable on any security of the [15][Central Government] issued or declared to be income-tax free :

Provided further that the income-tax payable on the interest receivable on any security of a [16][State] Government issued income-tax free shall be payable by the [16][State] Government.

[20a] [*Explanation.*—In the case of a banking company,—

(*a*) the amount which bears to the aggregate of its expenses as are admissible under sub-section (2) of section 10, other than under clauses (*iii*), (*vi*),

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[14b] Inserted by s. 5 of the Finance Act, 1956, with effect from the 1st April, 1956.

[15] Substituted for "Government of India" by the Government of India (Adaptation of Indian Laws) Order, 1937.

[16] Substituted for "Provincial" by the Adaptation of Laws Order, 1950.

[17] Inserted by s. 3 of the Indian I. T. (Second Amendment) Act, 1933 (18 of 1933).

[18] Substituted for "in respect of any reasonable sum deducted by a banker from such interest by way of commission or paid to any other person by way of remuneration for realizing such interest on behalf of the assessee" by s. 6 of the Finance Act, 1956, with effect from the 1st April, 1956.

[19] Added by s. 9 of the Indian I. T. (Amendment) Act, 1939 (7 of 1939).

[20] Substituted for "British India" by the Adaptation of Laws Order, 1950.

[20a] Added by s. 6 of the Finance Act, 1956, with effect from the 1st April, 1956.

(*vi-a*), (*vi-b*), (*vii*), (*viii*), (*xi*), (*xii*), (*xiii*) and (*xiv*) thereof, the same proportion as the gross receipts from interest on securities (inclusive of tax deducted at source) chargeable to tax under this section bears to the gross receipts from all sources which are included in the profit and loss account of the company, shall be deemed to be the sum reasonably expended by it for the purposes of realising such interest ; and the amount for which allowance is admissible under sub-section (2) of section 10 shall be reduced correspondingly ; and

(*b*) money borrowed shall include moneys received by way of deposits ; and that amount which bears to the amount of interest payable on moneys borrowed the same proportion as the gross receipts from interest on securities (inclusive of tax deducted at source) chargeable to tax under this section bears to the gross receipts from all sources which are included in the profit and loss account of the company, shall be deemed to be interest payable on money borrowed for the purpose of investment in the securities by the assessee, and the amount of such interest for which allowance is due under sub-section (2) of section 10 shall be reduced correspondingly.]

9. Property.—(1) The tax shall be payable by an assessee [21][under the head "Income from property"] in respect of the *bona fide* annual value of property consisting of any buildings or lands appurtenant thereto of which he is the owner, other than such portions of such property as he may occupy for the purposes of [22][any business, profession or vocation carried on by him the profits of which are assessable to tax], subject to the following allowances, namely :—

(*i*) where the property is in the occupation of the owner, or where it is let to a tenant and the owner has undertaken to bear the cost of repairs, a sum equal to one-sixth of such value ;

(*ii*) where the property is in the occupation of a tenant who has undertaken to bear the cost of repairs, the difference between such value and the rent paid by the tenant up to but not exceeding one-sixth of such value :

[23][Provided that for the purposes of making any assessment for the year ending on the 31st day of March, 1952, in respect of the property situated in an area affected by the Assam earthquake of 1950, the allowance on account of repairs referred to in clauses (*i*) and (*ii*) shall be increased up to a maximum of one-half of the annual value thereof or the amount of expenditure proved to have been actually incurred for repairs, whichever is the less ;]

(*iii*) the amount of any annual premium paid to insure the property against risk of damage or destruction ;

[24][(*iv*) where the property is subject to a mortgage or other capital charge, the amount of any interest on such mortgage or charge ; where the property

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[21] Substituted for "under the head 'Property' " by s. 10 of the Indian I. T. (Amendment) Act, 1939 (7 of 1939).

[22] Substituted for "his business," *ibid.*

[23] Inserted by s. 7 of the Indian I. T. (Amendment) Act, 1953 (25 of 1953). The amendment shall be deemed to be operative for any assessment for the year ending on the 31st day of March, 1952, whether made before or after the commencement of the Indian I. T. (Amendment) Act, 1953, and where any such assessment has been made before such commencement the Income-tax Officer concerned shall revise it, wherever necessary, to give effect to this amendment.

[24] Substituted by s. 10 of the Indian I. T. (Amendment) Act, 1939 (7 of 1939).

Div. 1 S. 9

is subject to an annual charge not being a capital charge, the amount of such charge; where the property is subject to a ground rent, the amount of such ground rent; and where the property has been acquired, constructed, repaired, renewed or reconstructed with borrowed capital, the amount of any interest payable on such capital:

Provided that no allowance shall be made in respect of any interest or annual charge payable without [25][the taxable territories] and chargeable under this Act, not being interest on a loan issued for public subscription before the 1st day of April, 1938, except interest or a charge on which tax has been paid or from which tax has been deducted under section 18 or in respect of which there is an agent for the payee in [25][the taxable territories] who may be assessed under section 43;]

(*v*) any sums paid on account of land revenue in respect of the property;

(R. 7.) (*vi*) in respect of collection charges, a sum not exceeding the prescribed maximum;

[1][(*vii*) in respect of vacancies, that part of [2][the annual value] which is proportional to the period during which the property is wholly unoccupied or, where the property is let out in parts, that portion of [2][the annual value] appropriate to any vacant part, which is proportional to the period during which such part is wholly unoccupied.]

[3]* * * * *

[4][*Explanation.*—For the purposes of clause (*v*) of this sub-section, the expression "annual charge" does not include any tax in respect of property or income from property levied by a local authority or a State Government or the Central Government.]

[5][(2) For the purposes of this section, the annual value of any property shall be deemed to be the sum for which the property might reasonably be expected to let from year to year:

[6][Provided that, where the property is in the occupation of the owner for the purposes of his own residence, the annual value thereof shall first be determined in the same manner as if the property had been let to a tenant and the amount so determined shall be reduced by one-half of it or eighteen hundred rupees, whichever is less, so however that where the sum so reduced exceeds ten per cent. of the total income of the owner, the annual value of the property shall be deemed to be ten per cent. of such total income:]

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[25] Substituted for "British India" by the Adaptation of Laws Order, 1950.

[1] Substituted by s. 10 of the Indian I. T. (Amendment) Act, 1939 (7 of 1939).

[2] Substituted for "the net annual value, after deducting the foregoing allowances" by s. 5 of the Indian I. T. (Amendment) Act, 1940 (40 of 1940).

[3] The proviso was omitted by s. 10 of the Indian I. T. (Amendment) Act, 1939 (7 of 1939).

[4] This *Explanation* was added by s. 2 of the Indian I. T. (Amendment) Act, 1950 (71 of 1950), and shall be deemed always to have been in the Act, subject to savings regarding certain cases decided by the Supreme Court.

[5] Substituted with effect from the 1st April, 1951, by s. 5, *ibid.* The amendment applies to all assessments for the year ending on the 31st March, 1952, and for any subsequent year.

[6] Substituted by s. 7 of the Indian I. T. (Amendment) Act, 1953 (25 of 1953), with effect from the 1st April, 1952, and further substituted by s. 7 of the Finance Act, 1955, with effect from the 1st April, 1955.

[7][Provided further that where the property referred to in the preceding proviso consists of one residential house only and it cannot actually be occupied by the owner by reason of the fact that owing to his employment, business, profession or vocation carried on at any other place, he has to reside at that other place in a building not belonging to him and the residential house is not actually let and no other benefit therefrom is derived by the owner, the income of such property under this section shall, if the property was not occupied during the whole of the previous year be taken to be *nil*, and if it was occupied for a part of the previous year be computed proportionately, so however that the income in respect of such property shall in no case be a loss :]

Provided further that where the property is in the occupation of a tenant and the taxes levied by any local authority in respect of the property are, under the law authorising such levy, payable wholly by the owner or partly by the owner and partly by the tenant—

(*a*) one-half of the total amount of such taxes [8]* * * shall, notwithstanding anything contained in such law, be deemed to be the tenant's liability for such taxes, and

(*b*) in determining the annual value of the property with reference to the rent payable by the tenant, a deduction shall be made equal to that part, if any, of the tenant's liability which is borne by the owner.]

[9][(3) Where property is owned by two or more persons and their respective shares are definite and ascertainable, such persons shall not in respect of such property be assessed as an association of persons, but the share of each such person in the income from the property as computed in accordance with this section shall be included in his total income.]

[10][(4) For the purposes of this section—

(*a*) the holder of an impartible estate shall be deemed to be the individual owner of all the properties comprised in the estate ;

(*b*) a member of a co-operative society to whom a building built by the society is allotted or leased under a house-building scheme of the society shall be deemed to be the owner of that building.]

10. Business.—(1) The tax shall be payable by an assessee under the head [11]["Profits and gains of business, profession or vocation"] in respect of the profit or gains of any [11][business, profession or vocation] carried on by him.

(2) Such profits or gains shall be computed after making the following allowances, namely :—

(*i*) any rent paid for the premises in which such [12][business, profession or vocation] is carried on, provided that when any substantial part of

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[7] Inserted by s. 3 of the Finance Act, 1953 (14 of 1953), with effect from the 1st April, 1953.

[8] "Or one-eighth of the annual value of the property, whichever is less" omitted by s. 7 of the Finance Act, 1955, with effect from the 1st April, 1955.

[9] Added by s. 10 of the Indian I. T. (Amendment) Act, 1939 (7 of 1939).

[10] Added by s. 4 of the I. T. and B. P. T. (Amendment) Act, 1948 (48 of 1948), with effect from the 30th March, 1948, and substituted by s. 7 of the Finance Act, 1955, with effect from the 1st April, 1955.

[11] Substituted for "business" by s. 11 of the Indian I. T. (Amendment) Act, 1939 (7 of 1939).

[12] Substituted for "business", *ibid.*

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S. 10

the premises is used as a dwelling-house by the assessee, the allowance under this clause shall be such sum as the Income-tax Officer may determine having regard to the [13][proportional annual value of the part] so used;

(*ii*) in respect of repairs, where the assessee is the tenant only of the premises, and has undertaken to bear the cost of such repairs, the amount paid on account thereof, provided that, if any substantial part of the premises is used by the assessee as a dwelling-house, a proportional part only of such amount shall be allowed;

(*iii*) in respect of capital borrowed for the purposes of the [14][business, profession or vocation] [15][* * *] the amount of the interest paid:

[16][Provided that no allowance shall be made under this clause in any case for any interest chargeable under this Act which is payable without [17][the taxable territories], not being interest on a loan issued for public subscription before the 1st day of April, 1938, except interest on which tax has been paid or from which tax has been deducted under section 18 or in respect of which there is an agent in [17][the taxable territories] who may be assessed under section 43 or, in the case of a firm, for any interest paid to a partner of the firm];

Explanation.—Recurring subscriptions paid periodically by shareholders or subscribers in such Mutual Benefit Societies as may be prescribed, shall be deemed to be capital borrowed within the meaning of this clause;

(*iv*) in respect of insurance against risk of damage or destruction of buildings, machinery, plant, furniture, stocks or stores, used for the purposes of the [14][business, profession or vocation], the amount of any premium paid;

(*v*) in respect of current repairs to such buildings, machinery, plant or furniture, the amount paid on account thereof;

(*vi*) in respect of depreciation of such buildings, machinery, plant or furniture being the property of the assessee, a sum equivalent, [18][where the assets are ships other than ships ordinarily plying on inland waters,] to such percentage on the original cost thereof to the assessee as may in any case or class of cases be prescribed [18][and in any other case, to such percentage on the written down value thereof as may in any case or class of cases be prescribed];

(R. 8.)

[19][and where the buildings have been newly erected, or the machinery or plant being new, [20][not being machinery or plant entitled to the development rebate under clause (*vi-b*),] has been installed, after the

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[13] Substituted for "proportional part," *ibid.*

[14] Substituted for "business," *ibid.*

[15] "Where the payment of interest thereon is not in any way dependent on the earning of profits" omitted, *ibid.*

[16] Added, *ibid.*

[17] Substituted for "British India" by the Adaptation of Laws Order, 1950.

[18] Inserted by s. 11 of the Indian I. T. (Amendment) Act, 1939 (7 of 1939) as amended by the I. T. Law (Amendment) Act, 1940 (12 of 1940).

[19] Inserted by s. 3 of the Indian I. T. (Amendment) Act, 1946 (8 of 1946).

[20] Inserted by s. 8 of the Finance Act, 1955, with effect from the 1st April, 1955.

31st day of March, 1945, [20a][and before the 1st day of April, 1956,] a further sum (which shall however not be deductible in determining the written down value for the purposes of this clause) in respect of the year of erection or installation equivalent,—

(*a*) in the case of buildings the erection of which is begun and completed between the 1st day of April 1946 and the 31st day of March [21][1956] (both dates inclusive), to fifteen per cent. of the cost thereof to the assessee ;

(*b*) in the case of other buildings, to ten per cent. of the cost thereof to the assessee ;

(*c*) in the case of machinery or plant, to twenty per cent. of the cost thereof to the assessee :]

Provided that—

(*a*) the prescribed particulars have been duly furnished ;

(*b*) where, [22][in the assessment of the assessee or if the assessee is a registered firm, in the assessment of its partners,] full effect cannot be given to any such allowance in any year [23][not being a year which ended prior to the 1st day of April, 1939], owing to there being no profits or gains chargeable for that year, or owing to the profits or gains chargeable being less than the allowance, [24][then, subject to the provisions of [25][clause (*b*)] of the proviso to sub-section (2) of section 24], the allowance or part of the allowance to which effect has not been given, as the case may be, shall be added to the amount of the allowance for depreciation for the following year and deemed to be part of that allowance, or if there is no such allowance for that year, be deemed to be the allowance for that year, and so on for succeeding years ; and

(*c*) [1][the aggregate of all allowances in respect of depreciation made under this clause and clause (*vi-a*) or under any Act repealed hereby,] or under the Indian Income-tax Act, 1886 (II of 1886), shall, in no case, exceed the original cost to the assessee of the buildings, machinery, plant or furniture, as the case may be ;

[2][(*vi-a*) in respect of depreciation of buildings newly erected, or of machinery or plant being new which has been installed, after the 31st day of March, 1948, a further sum (which shall be deductible in determining the written

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[20a] Inserted by s. 7 of the Finance Act, 1956, with effect from the 1st April, 1956.

[21] "1952" was substituted for "1950" by s. 3 of the Finance Act, 1950 (25 of 1950), with effect from the 1st April, 1950 ; "1954" was substituted for "1952" by s. 8 of the Indian I. T. (Amendment) Act, 1953 (25 of 1953), with effect from the 1st April, 1952 ; and "1956" was substituted for "1954" by s. 3 of the Finance Act, 1954 (17 of 1954), with effect from the 1st April, 1954.

[22] Inserted by s. 8 of the Indian I. T. (Amendment) Act, 1953 (25 of 1953), with effect from the 1st April, 1952.

[23] Inserted by s. 11 of the Indian I. T. (Amendment) Act, 1939 (7 of 1939).

[24] Inserted by s. 6 of the Indian I. T. (Amendment) Act, 1941 (23 of 1941). Effect shall not be given to this amendment in the making of any assessment for any year before the year ending 31st March, 1943.

[25] Substituted for "clause (*a*)" by s. 4 of the Repealing and Amending Act, 1947 (2 of 1948).

[1] Substituted for "the aggregate of all such allowances made under this Act or any Act repealed hereby" by s. 8 of the Finance Act, 1955, with effect from the 1st April, 1955.

[2] Inserted by s. 11 of the Taxation Laws (Extension to Merged States and Amendment) Act, 1949 (67 of 1949).

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down value) equal to the amount admissible under clause (*vi*) (exclusive of the extra allowance for double or multiple shift working of the machinery or plant and the initial depreciation allowance admissible under that clause for the first year of erection of the building or the installation of the machinery or plant) [3][in not more than five successive assessments for the financial years next following the previous year in which such buildings are erected and such machinery and plant installed and falling within the period commencing on the 1st day of April, 1949, and ending on the 31st day of March, 1959] ;]

[4]* * *

[5][(*vi-b*) in respect of machinery or plant being new, which has been installed after the 31st day of March, 1954, and which is wholly used for the purposes of the business carried on by the assessee, a sum by way of development rebate in respect of the year of installation equivalent to twenty-five per cent of the actual cost of such machinery or plant to the assessee :

Provided that no allowance under this clause shall be made unless the particulars prescribed for the purpose of clause (*vi*) have been furnished by the assessee in respect of such machinery or plant ;]

[6][(*vii*) in respect of any such building, machinery or plant which has been sold or discarded or demolished or destroyed, the amount by which the written down value thereof exceeds the amount for which the building, machinery or plant, as the case may be, is actually sold or its scrap value :

Provided that such amount is actually written off in the books of the assessee :

Provided further that where the amount for which any such building, machinery or plant is sold, [7][whether during the continuance of the business or after the cessation thereof], exceeds the written down value, so much of the excess as does not exceed the difference between the original cost and the written down value shall be deemed to be profits of the previous year in which the sale took place :

Provided further that where any insurance, salvage or compensation moneys are received in respect of any such building, machinery or plant which has been discarded or demolished or destroyed, and the amount of such moneys does not exceed the written down value, the amount allowable under this clause shall be the amount, if any, by which the difference between the written down value and the scrap value exceeds the amount of such moneys :

Provided further that where any insurance, salvage or compensation moneys are received in respect of any such building, machinery or plant as aforesaid, and the amount of such moneys exceeds the difference

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[3] Substituted for "in the assessments for each of the five years commencing on the 1st day of April, 1949, and ending with the 31st day of March, 1954", by s. 8 of the Indian I. T. (Amendment) Act, 1953 (25 of 1953), with effect from the 1st April, 1952.

[4] The proviso was omitted by s. 8 of the Finance Act, 1955, with effect from the 1st April, 1955.

[5] Inserted, *ibid.*, with effect from the 1st April, 1955.

[6] Substituted by s. 11 of the Indian I. T. (Amendment) Act, 1939 (7 of 1939), and further substituted by s. 3 of the Indian I. T. (Amendment) Act, 1946 (8 of 1946).

[7] Inserted by s. 11 of the Taxation Laws (Extension to Merged States and Amendment) Act, 1949 (67 of 1949).

between the written down value and the scrap value no amount shall be allowable under this clause and so much of the excess as does not exceed the difference between the original cost and the written down value less the scrap value shall be deemed to be profits of the previous year in which such moneys were received :

Provided further that for the purposes of this clause, the original cost of a building, the written down value of which is determined in accordance with the first proviso to sub-section (5), shall be deemed to be the written down value so determined as at the date of its being brought into use for the purposes of the business, profession or vocation ;]

[8][9][(*viii*)] in respect of animals which have been used for the purposes of the [10][business, profession or vocation] otherwise than as stock-in-trade and have died or become permanently useless for such purposes, the difference between the original cost to the assessee of the animals and the amount, if any, realised in respect of the carcasses or animals] ;

[9][(*ix*)] any sums paid on account of land-revenue, local rates or municipal taxes in respect of such part of the premises as is used for the purposes of the [10][business, profession or vocation] ;

[11][9][(*x*)] any sum paid to an employee as bonus or commission for services rendered, where such sum would not have been payable to him as profits or dividend if it had not been paid as bonus or commission :

Provided that the amount of the bonus or commission is of a reasonable amount with reference to—

(*a*) the pay of the employee and the conditions of his service ;

(*b*) the profits of the [10][business, profession or vocation] for the year in question ; and

(*c*) the general practice in similar [10][businesses, professions or vocations] ;]

[12][(*xi*) when the assessee's accounts in respect of any part of his business, profession or vocation are not kept on the cash basis, such sum, in respect of bad and doubtful debts, due to the assessee in respect of that part of his business, profession or vocation, and in the case of an assessee carrying on a banking or money-lending business, such sum in respect of loans made in the ordinary course of such business as the Income-tax Officer may estimate to be irrecoverable but not exceeding the amount actually written off as irrecoverable in the books of the assessee :

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[8] Originally inserted as clause (*vii-a*) by s. 2 of the Indian I. T. (Amendment) Act, 1928 (3 of 1928).

[9] The original clauses (*vii-a*), (*viii*) and (*viii-a*) were renumbered as (*viii*), (*ix*) and (*x*) respectively by s. 11 of the Indian I. T. (Amendment) Act, 1939 (7 of 1939).

[10] Substituted for the word "business", *ibid.*

[11] Originally inserted as clause (*viii-a*) by s. 2 of the Indian I. T. (Third Amendment) Act, 1930 (23 of 1930).

[12] Inserted by s. 11 of the Indian I. T. (Amendment) Act, 1939 (7 of 1939).

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Provided that if the amount ultimately recovered on any such debt or loan is greater than the difference between the whole debt or loan and the amount so allowed, the excess shall be deemed to be a profit of the year in which it is recovered, and if less, the deficiency shall be deemed to be a business expense of that year];

[13][(*xii*) any expenditure (not being in the nature of capital expenditure) laid out or expended on scientific research related to the business;

(*xiii*) any sum paid to a scientific research association having as its objects the undertaking of scientific research related to the class of business carried on, and any sum paid to a university, college or other institution to be used for [14][scientific research, research in social science or statistical research related to the class of business carried on]:

(R. 47.)

Provided that such association, university, college or institution is for the time being approved for the purposes of this clause by the prescribed authority;

(*xiv*) in respect of any expenditure of a capital nature on scientific research related to the business, an allowance for each of the five consecutive previous years beginning with the year in which the expenditure was incurred, or where the expenditure was incurred prior to the commencement of the business, for each of the five consecutive previous years beginning with the year in which the business was commenced, equal to one-fifth of such expenditure:

Provided that no allowance shall be made for any expenditure incurred more than three years before the commencement of the business:

Provided further that—

(*a*) where an asset representing scientific research expenditure of a capital nature ceases to be used for scientific research related to such business—

(i) no allowance shall be made in respect of any previous year after the previous year in which the cessation takes place, and

(ii) if the aggregate of the amounts allowed under this clause added to the value of the asset immediately before the cessation is less than the said expenditure, there shall also be allowed in respect of the previous year in which the cessation takes place an additional deduction equal to the difference;

(*b*) where such asset is sold without having been used for other purposes, the sale proceeds shall be taken to be the value of the asset immediately before the cessation, and if an additional allowance or a greater additional allowance would have been made in respect of the previous year in which the cessation occurred on the basis of that value, an amount equal to the additional allowance which would have been made or, as the case may be, to the difference between the additional allowance which would have been made and the additional allowance which was made for that year shall be made in respect of the previous year in which the sale occurs;

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[13] Clauses (*xii*), (*xiii*) and (*xiv*) were inserted by s. 3 of the Indian I. T. (Amendment) Act, 1946 (8 of 1946).

[14] Substituted for "such scientific research" by s. 8 of the Finance Act, 1955, with effect from the 1st April, 1955.

(*c*) where the proceeds of the sale plus the total amount of the allowances made under this clause exceed the amount of the expenditure, the excess or the amount of the allowances so made, whichever is the less, shall be treated as a receipt of the business accruing at the time of the sale ; **Div. 1 S. 10**

(*d*) where a deduction is allowed for any previous year under this clause in respect of expenditure represented wholly or partly by any asset, no deduction shall be allowed under clause (*vi*) or clause (*vii*) for the same previous year in respect of that asset ;

(*e*) where an asset is used in the business after it ceases to be used for scientific research related to that business, and a claim for an allowance under clause (*vi*) or clause (*vii*) is made in respect of that asset, the actual cost to the assessee of the asset shall be treated as reduced by the amount of any deductions allowed under this clause ;

(*f*) clause (*b*) of the proviso to clause (*vi*) shall apply in relation to deductions allowable under this clause as it applies in relation to deductions allowable in respect of depreciation ;

(*g*) if any question arises under clause (*xii*), clause (*xiii*) or this clause as to whether, and if so to what extent, any activity constitutes or constituted or any asset is or was being used for scientific research, the Central Board of Revenue shall refer the question to the prescribed authority, whose decision shall be final ; **(R. 47.)**

Explanation.—In clause (*xii*), clause (*xiii*) and this clause—

(i) "scientific research" means any activities in the fields of natural or applied science for the extension of knowledge ;

(ii) references to expenditure incurred on scientific research do not include any expenditure incurred in the acquisition of rights in, or arising out of, scientific research, but, save as aforesaid, include all expenditure incurred for the prosecution of, or the provision of facilities for the prosecution of, scientific research ;

(iii) references to scientific research related to a business or class of business include—

(*a*) any scientific research which may lead to or facilitate an extension of that business or, as the case may be, all businesses of that class ;

(*b*) any scientific research of a medical nature which has a special relation to the welfare of workers employed in that business or, as the case may be, businesses of that class] ;

[15][(*xv*)] any expenditure [16][([17][not being an allowance of the nature described in any of the clauses (*i*) to (*xiv*) inclusive, and] not being in the nature

[15] The original clause (*ix*) renumbered as (*xii*) by s. 11 of the Indian I. T. (Amendment) Act, 1939 (7 of 1939), was further renumbered (*xv*) by s. 3 of the Indian I. T. (Amendment) Act, 1946 (8 of 1946).

[16] Substituted for "(not being in the nature of capital expenditure) incurred solely for the purpose of earning such profits or gains," *ibid.* (7 of 1939).

[17] Inserted by s. 8 of the Indian I. T. (Amendment) Act, 1953 (25 of 1953), with effect from the 1st April, 1952.

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of capital expenditure or personal expenses of the assessee) laid out or expended wholly and exclusively for the purpose of such business, profession or vocation].

[18][* * * * *]

[19][(2A) Where for the purpose of computing profits or gains under this section, an allowance or deduction has been made in the assessment for any year in respect of any loss, expenditure or trading liability incurred by the assessee and, subsequently during any previous year, the assessee has received, whether in cash or in any other manner whatsoever, any amount in respect of such loss or expenditure or has obtained some benefit in respect of such trading liability by way of remission or cessation thereof, the amount received by him or the value of the benefit accruing to him shall be deemed to be profits and gains of business, profession or vocation and to have accrued or arisen during that previous year.]

[19a][(2B) Notwithstanding anything contained in sub-section (2), no allowance under clause (*vi*), clause (*vi-a*), clause (*vi-b*) or clause (*vii*) of that sub-section shall be made in computing under this section the profits or gains of a company for any previous year unless the company deposits or has deposited with the Central Government within six months from the end of the said previous year or before the thirtieth day of June of the assessment year relevant to such previous year, whichever is later—

(*i*) such percentage, if any (not exceeding twenty-five in any case) as may be notified by the Central Government, of the accumulated profits and reserves of the company as at the end of the year preceding the previous year, to the extent to which such profits and reserves are not represented by the fixed assets of the company ; and

(*ii*) such percentage, if any (not exceeding seventy-five in any case) as may be notified by the Central Government, of the amount by which the aggregate of the following amounts, namely :—

(*a*) the total income of the company for the previous year, as reduced by the amount of income-tax and super-tax payable in respect thereof (the total income and tax being computed by the assessee for this purpose) and by the dividends, if any, declared or deemed to be declared in India, during the previous year ; and

(*b*) the sum of the allowances claimed by the company under the clauses aforesaid ;

exceeds the sum of rupees one lakh :

Provided that where the total income computed by the Income-tax Officer under this Act exceeds the total income as computed by the company under clause (*ii*), the company shall be deemed not to have made any deposit under that clause unless it deposits with the Central Government such further amount as may be prescribed having regard to the excess, together with interest thereon at the prescribed rate and within the prescribed time :

Provided further that the Central Government may, by notification in the Official Gazette, direct that for any assessment year the provisions of this sub-section shall have effect as if for "the period of six months" and the date "the

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[18] The proviso was omitted by s. 11 of the Indian I. T. (Amendment) Act, 1939 (7 of 1939).

[19] Inserted by s. 8 of the Finance Act, 1955, with effect from the 1st April, 1955.

[19a] Inserted by s. 3 of the Finance (No. 3) Act, 1956, and substituted by s. 4 of the Finance (No. 2) Act, 1957, with effect from the 1st April, 1957.

thirtieth day of June" referred to therein the period or date specified in the notification had been substituted. **Div. 1 S. 10**

Explanation.—The power to fix percentages under this sub-section includes a power to fix different percentages in relation to different classes of companies.

(2C) The Central Government may make rules,—

(*a*) providing for the manner in which the deposits referred to in sub-section (2B) may be computed or made ;

(*b*) providing for the manner in which and the extent to which any amounts declared as dividends by a company incorporated outside India or by a company not resident in India or, by a company any portion of whose profits and gains is not included in its total income by reason of any of the provisions of this Act may be deemed to have been declared as dividends in India ;

(*c*) providing for the time when, and the manner in which, refunds of any deposit made under sub-section (2B) shall be made, whether with or without interest, and, in particular, the refund at any time of any such deposit or any part thereof where the refund is claimed for carrying out any such purpose connected with the business of the company as may be approved by the Central Government ;

(*d*) prescribing the circumstances in which, and the conditions subject to which, a deposit need not be made under sub-section (2B) ;

(*e*) providing for the procedure to be followed in respect of any of the matters specified in the preceding clauses, and the constitution of a Board of Referees for any of the purposes aforesaid.]

[20][(3) Where any building, machinery, plant or furniture in respect of which any allowance is due under clause (*iv*), clause (*v*), clause (*vi*) or clause (*vii*) of sub-section (2) is not wholly used for the purposes of the business, profession or vocation, the allowance shall be restricted to the fair proportional part of the amount which would be allowable if such building, machinery, plant or furniture was wholly so used.

(4) Nothing in clause (*ix*) or [21][clause (*xv*)] of sub-section (2) shall be deemed to authorise the allowance of any sum paid on account of any cess, rate or tax levied on the profits or gains of any business, profession or vocation or assessed at a proportion of or otherwise on the basis of any such profits or gains ; and nothing in [21][clause (*xv*)] of sub-section (2) shall be deemed to authorise—

(*a*) any allowance in respect of a payment which is chargeable under the head "Salaries" if it is payable without [22][the taxable territories] and tax has not been paid thereon nor deducted therefrom under section 18 ; or

(*b*) any allowance in respect of any payment by way of interest, salary, commission or remuneration made by a firm to any partner of the firm ; or

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[20] Sub-sections (3), (4), (5), (6) and (7) were substituted for the original sub-section (3) by s. 11 of the Indian I. T. (Amendment) Act, 1939 (7 of 1939).

[21] Substituted for "clause (*xii*)" by s. 4 of the Repealing and Amending Act, 1947 (2 of 1948).

[22] Substituted for "British India" by the Adaptation of Laws Order, 1950.

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(*c*) any allowance in respect of a payment to a provident or other fund established for the benefit of employees unless the employer has made effective arrangements to secure that tax shall be deducted at source from any payments made from the fund which are taxable under the head "Salaries."

[23][(4A) Nothing in sub-section (2) shall, in the computation of the profits and gains of a company, be deemed to authorise the making of—

(*a*) any allowance in respect of any expenditure which results directly or indirectly in the provision of any remuneration or benefit or amenity to a director or a person who has a substantial interest in the company within the meaning of sub-clause (*iii*) of clause (6C) of section 2, or

(*b*) any allowance in respect of any assets of the company used by any person referred to in clause (*a*) either wholly or partly for his own purposes or benefit,

if in the opinion of the Income-tax Officer any such allowance is excessive or unreasonable having regard to the legitimate business needs of the company and the benefit derived by or accruing to it therefrom.

Explanation.—The provisions of this sub-section shall apply notwithstanding that any amount disallowed under this sub-section is included in the total income of any person referred to in clause (*a*).]

(5) In sub-section (2), "paid" means actually paid or incurred according to the method of accounting upon the basis of which the profits or gains are computed under this section; "plant" includes vehicles, books, scientific apparatus and surgical equipment purchased for the purposes of the business, profession or vocation; and "written down value" means—

(*a*) in the case of assets acquired in the previous year, the actual cost to the assessee:

[24][Provided that where, before the date of acquisition by the assessee, the assets were at any time us d by any other person for the purposes of his business and the Income-tax Officer is satisfied that the main purpose of the transfer of such assets, directly or indirectly, to the assessee was the reduction of a liability to income-tax (by claiming depreciation with reference to an enhanced cost), the actual cost to the assessee shall be such an amount as the Income-tax Officer may, with the previous approval of the Inspecting Assistant Commissioner, determine having regard to all the circumstances of the case:]

[25][Provided further that where before the date of acquisition by the assessee, the assets, which belonged to the assessee and had been used by him for the purposes of his business, profession or vocation, had ceased to be his property by reason of transfer or otherwise, the actual cost to the assessee shall be the actual cost to him when he first acquired the assets less all depreciation actually allowed to him under this Act or under any Act repealed hereby or under executive orders issued when the Indian Income-tax Act, 1886 (II of 1886), was in force;]

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[23] Inserted by s. 7 of the Finance Act, 1956, with effect from the 1st April, 1956.

[24] Inserted by s. 11 of the Taxation Laws (Extension to Merged States and Amendment) Act, 1949 (67 of 1949).

[25] Inserted by s. 8 of the Finance Act, 1955. The amendment is not only effective as from the 1st April, 1955, but also applies to all assessments for any earlier year whether such assessments have been completed or not. (See s. 20 of the Finance Act, 1955.)

[1][(*b*) in the case of assets acquired before the previous year the actual cost to the assessee less all depreciation actually allowed to him under this Act, or any Act repealed thereby, or under executive orders issued when the Indian Income-tax Act, 1886 (II of 1886), was in force :]

[2][Provided that in the case of a building previously the property of the assessee and brought into use for the purposes of the business, profession or vocation after the 28th day of February 1946, "written down value" means the actual cost to the assessee reduced by an amount equal to the depreciation calculated at the rate in force on that date that would have been allowable had the building been used for the aforesaid purposes since the date of its acquisition by the assessee and had the provisions of this Act relating to the allowance for depreciation been in force on and from the date of acquisition :]

Provided [2][further] that where the provisions of the proviso to sub-section (2) of section 26 are applicable, the actual cost to the assessee referred to in [3][clauses (*a*) and (*b*)] shall be the actual cost to the person succeeded in the business, profession or vocation ;

[3]* * * * *

[4][(*c*) in the case of assets acquired by the assessee by way of gift or inheritance, the "written-down-value" as in the case of the previous owner or the market value thereof whichever is the less.]

[4][*Explanation.*—For the purposes of this sub-section, the expression "actual cost" means the actual cost of the assets to the assessee reduced by that por ion of the cost thereof, if any, as has been met directly or indirectly by Government or by any public or local authority, and any allowance in respect of any depreciation carried forward under clause (*b*) of the proviso to clause (*vi*) of sub-section (2) shall be deemed to be depreciation "actually allowed".]

[5][(5A) Any compensation or other payment due to or received by,—

(*a*) a managing agent of an Indian company at or in connection with the termination or modification of his managing agency agreement with the company ;

(*b*) a manager of an Indian company at or in connection with the termination of his office or modification of the terms and conditions relating thereto ;

(*c*) any person, by whatever name called, managing the whole or substantially the whole affairs of any other company in the taxable territories, at or in connection with the termination of his office or the modification of the terms and conditions relating thereto ;

(*d*) any person, by whatever name called, holding an agency in the taxable territories for any part of the activities relating to the business of any other person, at or in connection with the termination of his agency or the modification of the terms and conditions relating thereto ;

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[1] Substituted for clauses (*b*) and (*c*) by s. 6 of the Indian I. T. (Amendment) Act, 1941 (23 of 1941). Effect shall not be given to this amendment in the making of any assessment for any year before the year ending 31st March, 1943.

[2] Inserted by s. 3 of the Indian I. T. (Amendment) Act, 1946 (8 of 1946).

[3] "Clauses (*a*) and (*b*)" was substituted for "clauses (*a*), (*b*) and (*c*)" and the next proviso was omitted by s. 6 of the Indian I. T. (Amendment) Act, 1941 (23 of 1941). Effect shall not be given to this amendment in the making of any assessment for any year before the year ending 31st March, 1943.

[4] Inserted by s. 8 of the Indian I. T. (Amendment) Act, 1953 (25 of 1953), with effect from the 1st April, 1952.

[5] Inserted by s. 8 of the Finance Act, 1955, with effect from the 1st April, 1955.

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shall be deemed to be profits and gains of a business carried on by the managing agent, manager or other person, as the case may be, and shall be liable to tax accordingly; and the tax on such compensation or other payment shall, if the assessee so elects, be computed at the average of the rates of income-tax and super-tax applicable to his total income for the three years immediately preceding the previous year in which the compensation or other payment was due or received.]

(6) A trade, professional or similar association performing specific services for its members for remuneration definitely related to those services shall be deemed for the purpose of this section to carry on business in respect of those services, and the profits and gains therefrom shall be liable to tax accordingly.

(7) Notwithstanding anything to the contrary contained in sections 8, 9, 10, 12 or 18, the profits and gains of any business of insurance and the tax payable thereon shall be computed in accordance with the rules contained in the Schedule to this Act.]

11. Professional earnings.—*Omitted by s. 12 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939).*

12. Other sources.—(1) The tax shall be payable by an assessee under the head [6]["Income from other sources"] in respect of income, profits and gains of every kind [7][which may be included in his total income] (if not included under any of the preceding heads).

[8][(1A) Income from other sources shall include dividends.

(1B) Any payment by a company to a shareholder by way of advance or loan which would have been treated as a dividend within the meaning of clause (*e*) of sub-section (6A) of section 2 in any previous year relevant to any assessment year prior to the assessment year ending on the 31st day of March, 1956, had that clause been in force in that year, shall be treated as a dividend received by him in the previous year relevant to the assessment year ending on the 31st day of March, 1956, if such loan or advance remained outstanding on the first day of such previous year.]

(2) Such income, profits and gains shall be computed after making allowance for any expenditure (not being in the nature of capital expenditure) incurred solely for the purpose of making or earning such income, profits or gains, [8][and further in the case of any income by way of dividend, for any reasonable sum paid by way of commission or remuneration to a banker or any other person realising such dividend on behalf of the assessee,] [9][provided that no allowance shall be made on account of—

(*a*) any personal expenses of the assessee, or

(*b*) any interest chargeable under this Act which is payable without [10][the taxable territories], not being interest on a loan issued for public subscription before the 1st day of April, 1938, or not being interest on which tax has been paid or from which tax has been deducted under section 18, or

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[6] Substituted for "Other sources" by s. 13 of the Indian I. T. (Amendment) Act, 1939 (7 of 1939).

[7] Substituted for "and from every source to which this Act applies", *ibid.*

[8] Inserted by s. 9 of the Finance Act, 1955, with effect from the 1st April, 1955.

[9] Substituted for "provided that no allowance shall be made on account of any personal expenses of the assessee" by s. 13 of the Indian I. T. (Amendment) Act, 1939 (7 of 1939).

[10] Substituted for "British India" by the Adaptation of Laws Order, 1950.

(*c*) any payment which is chargeable under the head 'Salaries,' if it is payable without [11][the taxable territories] and tax has not been paid thereon nor deducted therefrom under section 18.]

[12][(3) Where an assessee lets on hire machinery, plant or furniture belonging to him, he shall be entitled to allowances in accordance with the provisions of clauses (*iv*), (*v*), (*vi*) and (*vii*) of sub-section (2) of section 10.]

[13][(4) Where an assessee lets on hire machinery, plant or furniture belonging to him and also buildings, and the letting of the buildings is inseparable from the letting of the said machinery, plant or furniture, he shall be entitled to allowances in accordance with the provisions of clauses (*iv*), [14][(*v*), (*vi*) and (*vii*)] of sub-section (2) of section 10 in respect of such buildings.]

[15][(5) The provisions of [15*a*][sub-sections (2A) and (4A)] of section 10 shall apply, so far as may be, in computing income, profits and gains of an assessee under this section as they apply in computing profits or gains of an assessee under that section.]

[16][12A. Managing agency commission.—Where a managing agent of a company is liable under an agreement made for adequate consideration to share managing agency commission with a third party or parties, the said agent and the said party or parties shall file a declaration showing the proportion in which such commission is shared between them, and on proof to the satisfaction of the Income-tax Officer of the facts contained in such declaration such agent and each such party shall be chargeable only on the share to which such agent or party is entitled under the agreement.]

[17][12AA. Royalties or copyright fees for literary or artistic works.—Where the time taken by the author of a literary or artistic work in the making thereof is—

(*a*) more than twelve but less than twenty-four months, or

(*b*) more than twenty-four months,

the amount received or receivable by him during any previous year on account of any lump sum consideration for the assignment or grant of any of his interests in the copyright of that work or of royalties or copyright fees (whether receivable in lump sum or otherwise), in respect of that work, shall, if he so claims, be allocated for purposes of assessment as hereunder—

(*i*) in the case referred to in clause (*a*), one-half of the amount of such lump sum, royalties or fees as the income of the previous year in which the whole amount is received or receivable, and the other half as the income of the next succeeding previous year ; and

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[11] Substituted for "British India" by the Adaptation of Laws Order, 1950.

[12] Added by s. 13 of the Indian I. T. (Amendment) Act, 1939 (7 of 1939).

[13] Added by s. 7 of the Indian I. T. (Amendment) Act, 1941 (23 of 1941). Effect is not to be given to this amendment in the making of any assessment for any year before the year ending 31st March, 1943.

[14] Substituted for "(*v*) and (*vi*)" by s. 4 of the Indian I. T. (Amendment) Act, 1946 (8 of 1946).

[15] Inserted by s. 9 of the Finance Act, 1955, with effect from the 1st April, 1955.

[15*a*] Substituted for "sub-section (2A)" by s. 8 of the Finance Act, 1956, with effect from the 1st April, 1956.

[16] Inserted by s. 14 of the Indian I. T. (Amendment) Act, 1939 (7 of 1939).

[17] Inserted by s. 3 of the Finance Act, 1953 (14 of 1953), with effect from the 1st April, 1953.

Div. 1 Ss. 12AA-12B

(*ii*) in the case referred to in clause (*b*), one-third of the amount of such lump sum, royalties or fees as the income of the previous year in which the whole amount is received or receivable, and one-third of the said amount as the income of each of the two next succeeding previous years.

Explanation.—For the purposes of this section, the expression "author" includes a joint author and the expression "lump sum" in regard to royalties or copyright fees includes an advance payment on account of such royalties or copyright fees which is not returnable.]

[18][12B. **Capital gains.**—(1) The tax shall be payable by an assessee under the head "Capital gains" in respect of any profits or gains arising from the sale, exchange, relinquishment or transfer of a capital asset effected after the 31st day of March, 1956, and such profits and gains shall be deemed to be income of the previous year in which the sale, exchange, relinquishment or transfer took place :

Provided that any distribution of capital assets on the total or partial partition of a Hindu undivided family or under a deed of gift, bequest or will shall not for the purposes of this section be treated as a sale, exchange, relinquishment or transfer of the capital assets :

Provided further that the transfer of a capital asset by a company to a subsidiary company, the whole of the share capital of which is held by the parent company or by the nominees thereof, shall not be treated as a sale, exchange or transfer within the meaning of this section where the subsidiary company is resident in the taxable territories and is registered under the Indian Companies Act, 1956, so however that for the purposes of clause (*vi*) or clause (*vii*) of sub-section (2) of section 10, the cost or the written down value, as the case may be, of the transferred capital asset shall be taken to be the same as it would have been if the parent company had continued to hold the capital asset for the purposes of its business.

(2) The amount of a capital gain shall be computed after making the following deductions from the full value of the consideration for which the sale, exchange, relinquishment or transfer of the capital asset is made, namely :—

(*i*) expenditure incurred solely in connection with such sale, exchange, relinquishment or transfer ;

(*ii*) the actual cost to the assessee of the capital asset, including any expenditure of a capital nature incurred and borne by him in making any additions or alterations thereto, but excluding any expenditure in respect of which any allowance is admissible under any provision of sections 8, 9, 10 and 12 :

Provided that where a person who acquires a capital asset from the assessee, whether by sale, exchange, relinquishment or transfer, is a person with whom the assessee is directly or indirectly connected, and the Income-tax Officer has reason to believe that the sale, exchange, relinquishment or transfer was effected with the object of avoidance or reduction of the liability of the assessee under this section, the full value of the consideration for which the sale, exchange, relinquishment or transfer is made shall, with the prior approval of the Inspecting Assistant Commissioner of Income-tax, be taken to be the fair market value of the capital asset on the date on which the sale, exchange, relinquishment or transfer took place :

[18] Inserted by s. 6 of the Indian I. T. and E. P. T. (Amendment) Act, 1947 (22 of 1947), and substituted by s. 4 of the Finance (No. 3) Act, 1956, with effect from the 1st April, 1957.

Div. 1
S. 12B

Provided further that where the capital asset is an asset in respect of which the assessee has obtained depreciation allowance in any year, the actual cost of the asset to the assessee shall be its written down value, as defined in section 10, increased or diminished, as the case may be, by any adjustment made under clause (*vii*) of sub-section (2) of that section :

Provided further that where the capital asset became the property of the assessee, or of the previous owner where the cost of the capital asset to the previous owner is to be taken in accordance with sub-section (3), before the 1st day of January, 1954, he may, on proof of the fair market value thereof on the said date to the satisfaction of the Income-tax Officer, substitute for the actual cost such fair market value which shall be deemed to be the actual cost to him of the asset, and which shall be reduced by the amount of depreciation, if any, allowed to the assessee after the said date and increased or diminished, as the case may be, by any adjustment made under clause (*vii*) of sub-section (2) of section 10 :

Provided further that where the capital asset was on any previous occasion the subject of negotiations for its sale, exchange, relinquishment or transfer, any option or other money received and retained by the assessee in respect of such negotiations shall be deducted in computing the actual cost to him of such asset.

(3) Where any capital asset became the property of the assessee by succession, inheritance or devolution or on any distribution of capital assets on the total or partial partition of a Hindu undivided family or on the dissolution of a firm or other association of persons or on the liquidation of a company or under a deed of gift, or transfer on irrevocable trust, its actual cost allowable to him for the purposes of this section shall be its actual cost to the previous owner thereof, and the provisions of sub-section (2) shall apply accordingly ; and where the actual cost to the previous owner cannot be ascertained, the fair market value at the date on which the capital asset became the property of the previous owner shall be deemed to be the actual cost thereof :

Provided that where the capital asset became the property of the assessee—

(*i*) before the 1st day of April, 1956, under a deed of gift or on the partition of a Hindu undivided family, the actual cost allowable to him shall be the fair market value of the capital asset on the date of the gift or the date of the partition, as the case may be, if such value is greater than the actual cost to the previous owner or the fair market value thereof on the 1st day of January, 1954, where the third proviso to sub-section (2) applies ;

(*ii*) on or after the 1st day of April, 1956, on the partition of a Hindu undivided family, the cost allowable to him shall be the fair market value on the date of the partition.

(4) Notwithstanding anything contained in sub-section (1)—

(*a*) where a capital gain arises from the sale, exchange or transfer of one or more capital assets being property the income of which is chargeable under section 9, and the full aggregate value of the consideration for which the sale, exchange or transfer is made does not exceed the sum of twenty-five thousand rupees, the capital gain shall not be charged under this section and shall not also be included in the total income of the assessee :

Provided that this clause shall not apply in any case where the aggregate of the fair market values of all capital assets, being property the income of which is chargeable under section 9, owned by the assessee

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immediately before the sale, exchange or transfer aforesaid is made, exceeds the sum of rupees fifty thousand;

(*b*) where a capital gain arises from the sale, exchange, relinquishment or transfer of a capital asset to which the provisions of clause (*a*) are not applicable, being property the income of which is chargeable under section 9, which in the two years immediately preceding the date on which the sale, exchange, relinquishment or transfer took place, was being used by the assessee or a parent of his mainly for the purposes of his own or the parent's own residence, and the assessee has within a period of one year before or after that date purchased a new property for the purposes of his own residence, then instead of the capital gain being charged to tax as income of the previous year in which the sale, exchange, relinquishment or transfer took place, it shall, if the assessee so elects in writing before the assessment is made, be dealt with in accordance with the following provisions of this clause, that is to say,—

(*i*) if the amount of the capital gain is greater than the cost of the new asset, the difference between the amount of the capital gain and the cost of the new asset shall be charged under this section as income of the previous year, or

(*ii*) if the amount of the capital gain is equal to or less than the cost of the new asset, the capital gain shall not be charged under this section.]

13. Method of accounting.—Income, profits and gains shall be computed, for the purposes of sections 10 [19*] and 12, in accordance with the method of accounting regularly employed by the assessee:

Provided that, if no method of accounting has been regularly employed, or if the method employed is such that, in the opinion of the Income-tax Officer, the income, profits and gains cannot properly be deduced therefrom, then the computation shall be made upon such basis and in such manner as the Income-tax Officer may determine.

14. Exemptions of a general nature.—(1) The tax shall not be payable by an assessee in respect of any sum which he receives as a member of a Hindu undivided family [20][where such sum has been paid out of the income of the family] [1][or in the case of an impartible estate where such sum has been paid out of the income of the holder of the estate belonging to the family.]

[2][(2) The tax shall not be payable by an assessee—

(*a*) if a partner of an unregistered firm, in respect of any portion of his share in the profits and gains of the firm computed in the manner laid down in clause (*b*) of sub-section (1) of section 16 on which the tax has already been paid by the firm; or

[2a][(*aa*) if a partner of a registered firm, in respect of that portion of his share in the profits or gains of the firm as is equal to the difference between

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[19] "11" omitted by s. 15 of the Indian I. T. (Amendment) Act, 1939 (7 of 1939).

[20] Inserted by s. 3 of the Indian I. T. (Amendment) Act, 1944 (11 of 1944).

[1] Inserted by s. 6 of the I. T. and B. P. T. (Amendment) Act, 1948 (48 of 1948), with effect from the 30th March, 1948.

[2] Substituted for the original sub-section by s. 16 of the Indian I. T. (Amendment) Act, 1939 (7 of 1939).

[2a] Inserted by s. 9 of the Finance Act, 1956, with effect from the 1st April, 1956.

his share in the total income of the firm and his share in such total income excluding the income-tax, if any, payable by the firm, the shares in either case being computed in the manner laid down in clause (*b*) of sub-section (1) of section 16 :

Provided that in relation to super-tax the provisions of this clause shall have effect as if for the words "excluding the income-tax, if any, payable by the firm" the words "excluding the income-tax, if any, payable by the firm, at the rate of income-tax applicable to its total income, on the amount of its profits or gains from all sources other than from any business carried on by it" had been substituted ;]

(*b*) if a member of an association of persons other than a Hindu undivided family, a company or a firm, in respect of any portion of the amount which he is entitled to receive from the association on which the tax has already been paid by the association.] [3][*]

(*c*) [3]* * * *

[4][(3) The tax shall not be payable by a co-operative society, including a co-operative society carrying on the business of banking—

(*i*) in respect of profits and gains of business carried on by it ;

(*ii*) in respect of interest and dividends derived from its investments with any other co-operative society ;

(*iii*) in respect of any income derived from the letting of godowns or warehouses for storage, processing or facilitating the marketing of commodities ;

(*iv*) in respect of any interest on securities chargeable under section 8 or any income from property chargeable under section 9, where the total income of such society does not exceed twenty thousand rupees and the society is not a housing society or an urban consumers' society or a society carrying on transport business :

Provided that nothing contained in this sub-section shall apply to—

(*i*) the Sanikatta Saltowners' Society [4a]* * ;

(*ii*) a co-operative society carrying on insurance business in respect of the profits and gains of that business computed in accordance with rule 9 in the Schedule.

Explanation.—For the purposes of this sub-section, an "urban consumers' co-operative society" means a society for the benefit of consumers within the limits of a municipal corporation, municipality, municipal committee, notified area committee, town area or cantonment.

(4) The tax shall not be payable by an assessee, who is a member of a co-operative society, in respect of any dividends received by him from the society.

(5) The tax shall not be payable by an assessee, which is an authority constituted under any law for the time being in force for the marketing of commodities, in respect of any income derived from the letting of godowns or warehouses for storage, processing or facilitating the marketing of commodities.]

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[3] The word "or" and clause (*c*) were omitted by s. 2 and Sch. of the Taxation Laws (Extension to Jammu and Kashmir) Act, 1954 (41 of 1954).

[4] Inserted by s. 10 of the Finance Act, 1955, with effect from the 1st April, 1955.

[4a] "In the State of Bombay" omitted by the Adaptation of Laws (No. 3) Order, 1956, with effect from the 1st November, 1956.

Div. 1 Ss. 15-15A

15. Exemption in the case of life insurances.—(1) The tax shall not be payable [5][in respect of any sums paid by an assessee to effect an insurance on the life of the assessee or on the life of a wife or husband of the assessee or in respect of a contract for a deferred annuity on the life of the assessee or on the life of a wife or husband of the assessee], or as a contribution to any Provident Fund to which the Provident Funds Act, [6][1925] (XIX of 1925), applies [7][* * * *].

(2) Where the assessee is a Hindu undivided family, there shall be exempted under sub-section (1) any sums paid to effect an insurance on the life of any male member of the family or of the wife of any such member.

[8][(2A) Nothing in sub-section (1) or sub-section (2) shall apply to so much of any premium or other payment made on a policy other than a contract for a deferred annuity as is in excess of ten per cent. of the actual capital sum assured ; and in calculating any such capital sum no account shall be taken of the value of any premiums agreed to be returned or of any benefit by way of bonus or otherwise which is to be or may be received either before or after death either by the person paying the premium or by any other person and which is not the sum actually assured.]

(3) The aggregate of any sums exempted under this section shall not, together with any sums exempted under the [9][first proviso] to sub-section (1) of section 7 [10][and any sums exempted under [10a][section 58F]], [11][exceed in the case of an individual, [11a][one-fourth] of the total income of the assessee or eight thousand rupees, whichever is less, and in the case of a Hindu undivided family, [11a][one-fourth] of the total income of the assessee or sixteen thousand rupees, whichever is less].

[12][**15A. Exemption of portion of earned income.**—The tax shall not be payable by an assessee in respect of such portion, if any, of the earned income included in his total income as is directed by the annual [13][Central Act] fixing the rate or rates of tax for any year to be deducted in making an assessment for that year, and for the purposes of determining the rates at which income-tax (but not super-tax) is payable by the assessee for that year his total income shall be deemed to be the total income reduced by the said portion.]

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[5] Substituted by s. 17 of the Indian I. T. (Amendment) Act, 1939 (7 of 1939).

[6] Substituted for "1897", *ibid.*

[7] "Or to any Provident Fund which complies with the provisions of the Provident Insurance Societies Act, 1912, or has been exempted from the provisions of that Act" omitted by s. 5 of the Indian I. T. (Amendment) Act, 1924 (11 of 1924).

[8] Inserted by s. 4 of the Indian I. T. (Amendment) Act, 1944 (11 of 1944).

[9] Substituted for "second proviso" by s. 10 of the Finance Act, 1956, with effect from the 1st April, 1956.

[10] Inserted by s. 3 of the Indian I. T. (Provident Funds Relief) Act, 1929 (12 of 1929).

[10a] Substituted for "sub-section (1) of Section 58F" by s. 5 of the Finance (No. 2) Act, 1957, with effect from the 1st April, 1957.

[11] Substituted for "exceed in the case of an individual, one-sixth of the total income of the assessee or six thousand rupees, whichever is less, and in the case of a Hindu undivided family, one-sixth of the total income of the assessee or twelve thousand rupees, whichever is less" by s. 11 of the Finance Act, 1955, with effect from the 1st April, 1955.

[11a] Substituted for "one-fifth" by s. 5 of the Finance (No. 2) Act, 1957, with effect from the 1st April, 1957.

[12] Inserted by s. 3 of Ordinance No. 9 of 1945.

[13] Substituted for "Act of the Central Legislature" by the Adaptation of Laws Order, 1950.

[14][15B. **Exemption on account of donations for charitable purposes.**—[15][(1) The tax shall not be payable by an assessee in respect of any sums paid by him on or after the first day of April, 1953, as donations to any institution or fund to which this section applies :

Provided that in the case of a company this exemption shall apply only in respect of income-tax, and not in respect of super-tax payable by it :

Provided further that this exemption shall not apply—

(*a*) if the aggregate of the sums so paid by the assessee is less than two hundred and fifty rupees,

(*b*) to any sums paid in excess of one-twentieth of the assessee's total income as reduced by any portion thereof exempt from tax under any other provisions of this Act, or one hundred thousand rupees, whichever is less.

(2) This section applies to any institution or fund established in the taxable territories for a charitable purpose—

(*i*) the income whereof is exempt under clause (*i*) of sub-section (3) of section 4 ;

(*ii*) which is not expressed to be for the benefit of any particular religious community ;

(*iii*) which maintains regular accounts of its receipts and expenditure ; and

(*iv*) which is either constituted as a public charitable trust or is registered under the Societies Registration Act, 1860 (XXI of 1860), or under section 26 of the Indian Companies Act, 1913 (VII of 1913), or is a university established by law or is any other educational institution recognised by Government or by a university or affiliated to any university; or

(*v*) which is an institution financed wholly or in part by the Government or a local authority.

Explanation.—An institution or fund established for the benefit of scheduled castes, backward classes, scheduled tribes or of women and children shall not be deemed to be an institution or fund expressed to be for the benefit of a religious community within the meaning of clause (*ii*).

(2A) For the removal of doubts, it is hereby declared that in respect of sums paid as donations on or after the 1st day of April, 1948, and before the 1st day of April, 1953, the provisions of sub-sections (1) and (2) shall apply as if the amendments made by clause (*c*) of section 3 of the Finance Act, 1953, had not been made.]

(3) The amount by which the tax payable by an assessee is reduced on account of an exemption under this section shall not in any case exceed half the amount in respect of which the exemption is allowed under this section.]

[16][15C. **Exemption from tax of newly established industrial undertakings.**—(1) Save as otherwise hereinafter provided, the tax shall not be payable by an assessee on so much of the profits or gains derived from any industrial undertaking to which this section applies as do not exceed six per cent.

[14] Inserted by s. 8 of the Indian Finance Act, 1948 (20 of 1948).

[15] Substituted by s. 3 of the Finance Act, 1953 (14 of 1953), with effect from the 1st April, 1953.

[16] Inserted by s. 13 of the Taxation Laws (Extension to Merged States and Amendment) Act, 1949 (67 of 1949).

Div. 1 Ss. 15C-16

per annum on the capital employed in the undertaking, computed in accordance with such rules as may be made in this behalf by the Central Board of Revenue.

(2) This section applies to any industrial undertaking which—

(*i*) is not formed by the splitting up, or the reconstruction of, business already in existence or by the transfer to a new business of building, machinery or plant used in a business which was being carried on before the 1st day of April, 1948;

(*ii*) has begun or begins to manufacture or produce articles in [17][any part of the taxable territories] at any time within a period of [18][thirteen] years from the 1st day of April, 1948, or such further period as the Central Government may, by notification in the official Gazette, specify with reference to any particular industrial undertaking;

[19][(*iii*) employs ten or more workers in a manufacturing process carried on with the aid of power, or employs twenty or more workers in a manufacturing process carried on without the aid of power:]

Provided that the Central Government may, by notification in the official Gazette, direct that the exemption conferred by this section shall not apply to any particular industrial undertaking.

(3) The profits or gains of an industrial undertaking to which this section applies shall be computed in accordance with the provisions of section 10.

(4) The tax shall not be payable by a shareholder in respect of so much of any dividend paid or deemed to be paid to him by an industrial undertaking as is attributable to that part of the profits or gains on which the tax is not payable under this section.

(5) Nothing in this section shall affect the application of section 23A in relation to the profits or gains of an industrial undertaking to which this section applies [19*a*] * * * .

[20][(6) The provisions of this section shall apply to the assessment for the financial year next following the previous year in which the assessee begins to manufacture or produce articles and for the four assessments immediately succeeding.]]

16. Exemptions and exclusions in determining the total income.—[21][(1) In computing the total income of an assessee—

(*a*) any sums exempted under the [21*a*][first] proviso to sub-section (1) of section 7, the second and third provisos to section 8, [21*b*][sub-sections (2), (3), (4)

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[17] Substituted for "any Province in India" by the Adaptation of Laws Order, 1950.

[18] "Six" was substituted for "three" by s. 10 of the Indian I. T. (Amendment) Act, 1953 (25 of 1953), with effect from the 1st April, 1952. "Eight" was substituted for "six" by s. 3 of the Finance Act, 1954 (17 of 1954), with effect from the 1st April, 1954. "Thirteen" was substituted for "eight" by s. 11 of the Finance Act, 1956, with effect from the 1st April, 1956.

[19] Substituted, *ibid.* (25 of 1953), with effect from the 1st April, 1952.

[19*a*] "And for the purposes of that section, the expression 'assessable income' shall be deemed to include the profits or gains in respect of which the tax is not payable under this section" omitted by s. 12 of the Finance Act, 1955, with effect from the 1st April, 1955.

[20] Substituted by s. 10 of the Indian I. T. (Amendment) Act, 1953 (25 of 1953), with effect from the 1st April, 1952.

[21] Sub-sections (1) and (2) were substituted by s. 18 of the Indian I. T. (Amendment) Act, 1939 (7 of 1939).

[21*a*] Substituted for "second" by s. 13 of the Finance Act, 1955, with effect from the 1st April, 1955.

[21*b*] Substituted for "sub-section (2)", *ibid.*, with effect from the 1st April, 1955.

and (5)] of[22][section 14, [23][section 15, section 15B and section 15C]] shall be included, [24][and any sum exempted under section 15A shall also be included except for the purpose of determining the rates at which income-tax (but not super-tax) is payable by the assessee to whom the exemption is given];

(*b*) when the assessee is a partner of a firm, then, whether the firm has made a profit or a loss, his share (whether a net profit or a net loss) shall be taken to be any salary, interest, commission or other remuneration payable to him by the firm in respect of the previous year increased or decreased respectively by his share in the balance of the profit or loss of the firm after the deduction of any interest, salary, commission or other remuneration payable to any partner in respect of the previous year:

Provided that if his share so computed is a loss, such loss may be set off or carried forward and set off in accordance with the provisions of section 24;

(*c*) all income arising to any person by virtue of a settlement or disposition whether revocable or not, and whether effected before or after the commencement of the Indian Income-tax (Amendment) Act, 1939 (VII of 1939), from assets remaining the property of the settlor or disponer, shall be deemed to be income of the settlor or disponer, and all income arising to any person by virtue of a revocable transfer of assets shall be deemed to be income of the transferor:

Provided that for the purposes of this clause a settlement, disposition or transfer shall be deemed to be revocable if it contains any provision for the retransfer directly or indirectly of the income or assets to the settlor, disponer or transferor, or in any way gives the settlor, disponer or transferor a right to reassume power directly or indirectly over the income or assets:

Provided further that the expression "settlement or disposition" shall for the purposes of this clause include any disposition, trust, covenant, agreement, or arrangement, and the expression "settlor or disponer" in relation to a settlement or disposition shall include any person by whom the settlement or disposition was made:

Provided further that this clause shall not apply to any income arising to any person by virtue of a settlement or disposition which is not revocable for a period exceeding six years or during the lifetime of the person and from which income the settlor or disponer derives no direct or indirect benefit but that the settlor shall be liable to be assessed on the said income as and when the power to revoke arises to him.

(2) For the purposes of inclusion in the total income of an assessee any dividend shall be deemed to be income of the previous year in which it is paid, credited or distributed or deemed to have been paid, credited or distributed to

[22] Substituted for "section 14 and section 15" by s. 8 of the Indian Finance Act, 1948 (20 of 1948).

[23] Substituted for "section 15 and section 15B" by s. 14 of the Taxation Laws (Extension to Merged States and Amendment) Act, 1949 (67 of 1949).

[24] Inserted by s. 4 of Ordinance No. 9 of 1945.

Div. 1 S. 16

him, [25][and shall be increased to such amount as would, if income-tax (but not super-tax) at the rate applicable to the total income [1][of the company (without taking into account any rebate allowed or additional income-tax charged)] for the financial year in which the dividend is paid, credited or distributed or deemed to have been paid, credited or distributed, were deducted therefrom, be equal to the amount of the dividend :]

[2][Provided that when the sum out of which the dividend has been paid, credited or distributed or deemed to have been paid, credited or distributed includes—

(*i*) any profits and gains of the company not included in its total income, or

(*ii*) any income of the company on which income-tax was not payable, or

(*iii*) any amount attributable to any allowance made in computing the profits and gains of the company,

the increase to be made under this section shall be calculated only upon such proportion of the dividend as the said sum after deduction of the inclusions enumerated above bears to the whole of that sum.]]

[3][(3) In computing the total income of any individual for the purpose of assessment, there shall be included—

(*a*) so much of the income of a wife or minor child of such individual as arises directly or indirectly—

(*i*) from the membership of the wife in a firm of which her husband is a partner;

(*ii*) from the admission of the minor to the benefits of partnership in a firm of which such individual is a partner;

(*iii*) from assets transferred directly or indirectly to the wife by the husband otherwise than for adequate consideration or in connection with an agreement to live apart; or

(*iv*) from assets transferred directly or indirectly to the minor child, not being a married daughter, by such individual [4][otherwise than for adequate consideration]; and

(*b*) so much of the income of any [5][person or association of persons] [6][* * *] as arises from assets transferred [7][otherwise than for adequate consideration to the person or association] by such individual [8][for the benefit of his wife or a minor child or both.]]

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[25] Substituted by s. 9 of the Indian I. T. (Amendment) Act, 1941 (23 of 1941).

[1] Substituted for "of a company" by s. 8 of the Indian Finance Act, 1948 (20 of 1948).

[2] This Proviso was substituted by s. 12 of the Finance Act, 1956, and shall be deemed always to have been in the Act.

[3] Added by s. 2 of the Indian I. T. (Amendment) Act, 1937 (4 of 1937).

[4] Inserted by s. 18 of the Indian I. T. (Amendment) Act, 1939 (7 of 1939).

[5] Substituted for "association of individuals," *ibid.*

[6] "Consisting of such individual and his wife" omitted, *ibid.*

[7] Substituted for "to the association," *ibid.*

[8] Added, *ibid.*

[9][17. **Determination of tax payable in certain special cases.**— Div. 1 S. 17
[10][(1) Where a person is not resident in the taxable territories and is not a company, the tax, including super-tax, payable by him or on his behalf on his total income shall be an amount equal to—

(*a*) the income-tax which would be payable on his total income at the maximum rate, *plus*

(*b*) either the super-tax which would be payable on his total income [10a][at the rate of [10b][nineteen per cent.]], or the super-tax which would be payable on his total income if it were the total income of a person resident in the taxable territories, whichever is greater :

Provided that any such person may, on the first occasion on which he is assessable for any year subsequent to the year ending on the 31st day of March, 1951, and before the 30th day of June in that year, or where the first occasion on which he is so assessable falls during the year ending on the 31st day of March, 1952, before such [11]date as the Central Board of Revenue may, by notification in the Official Gazette, specify in this behalf, by notice in writing to the Income-tax Officer declare (such declaration being final and being applicable to all assessments thereafter) that the tax, including super-tax, payable by him or on his behalf on his total income shall be determined with reference to his total world income, and thereupon such tax shall be an amount bearing to the total amount of tax including super-tax which would have been payable on his total world income had it been his total income the same proportion as his total income bears to his total world income :]

[12][Provided further that where any such person satisfies the Income-tax Officer that he was prevented by sufficient cause from making such declaration on the first occasion on which he became assessable and his failure to make such declaration has not resulted in reducing his liability to tax for any year, the Income-tax Officer may, with the previous approval of the Inspecting Assistant Commissioner, allow such person to make the declaration at any time after the expiry of the period specified, and such declaration shall have effect in relation to the assessment for the year in which the declaration is made (if such assessment had not been completed before such declaration) and all assessments thereafter.]

(2) Where there is included in the total income of any assessee any income (including income from a share in an unregistered firm, if assessed as such) exempted from tax by or under the provisions of this Act, the income-tax excluding super-tax payable by the assessee shall be an amount bearing to the total amount of the income-tax excluding super-tax which would have been payable on the total income had no part of it been exempted the same proportion as the unexempted portion of the total income bears to the total income.]

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[9] Substituted for the original section by s. 19, *ibid.*

[10] Substituted by s. 3 of the Finance Act, 1951 (23 of 1951), with effect from the 1st April, 1951.

[10a] Substituted for "at the rate applicable in the case of an individual to the slab next to the slab exempt from super-tax" by s. 13 of the Finance Act, 1956, with effect from the 1st April, 1956.

[10b] Substituted for "three annas in the rupee" by s. 6 of the Finance (No. 2) Act, 1957, with effect from the 1st April, 1957.

[11] The date specified is the 31st December, 1951. (See Notifications No. S.R.O. 713, dated the 10th May, 1951, and No. S.R.O. 1803, dated the 16th November, 1951.)

[12] Added by s. 11 of the Indian I. T. (Amendment) Act, 1953 (25 of 1953), with effect from the 1st April, 1952.

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[13][(3) Where there is included in the total income of any assessee any income exempted from tax under [13a][clause (*aa*) or] clause (*c*) of sub-section (2) of section 14, [14][or under section 15B] [15][or under section 15C], the super-tax payable by the assessee shall be an amount bearing to the total amount of the super-tax which would have been payable on the total income had no part of it been so exempted the same proportion as the total income less the portion so exempted bears to the total income.

(4) Where any income exempted from tax under clause (*c*) of sub-section (2) of section 14 which has been taken into account under sub-section (2) or sub-section (3) of this section as part of the total income of an assessee for the purpose of determining the income-tax or super-tax payable by him is in a subsequent year brought into or received in [16][the taxable territories] by the assessee and becomes chargeable with tax accordingly, the tax including super-tax payable by the assessee on his total income of that subsequent year shall be—

(*a*) the amount which bears to the total amount of the tax including super-tax which would have been payable on his total income as reduced by the amount of the income so brought into or received in [16][the taxable territories] had such reduced income been his total income the same proportion as his total income bears to such reduced income, or

(*b*) the amount which bears to the total amount of the tax including super-tax which would have been payable on the amount of the income so brought into or received in [16][the taxable territories] had such income been his total income the same proportion as his total income bears to the amount of the income so brought into or received in [16][the taxable territories],

whichever is the greater].

[17][(5) Where the amount of the total income of any assessee is deemed to be the total income reduced under the provisions of section 15A by an allowance for earned income, the expression "total income" in this section shall, for the purpose of determining the amount of income-tax (but not super-tax) payable by the assessee, be deemed to refer to his total income so reduced.]

[18][(6) Where the total income of an assessee, not being a company, includes any income chargeable under the head "Capital gains," the tax, including super-tax, payable by him on his total income shall be—

(*i*) income-tax and super-tax payable on his total income as reduced by the amount of such inclusion, had such reduced income been his total income, *plus*

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[13] Sub-sections (3) and (4) were inserted by s. 10 of the Indian I. T. (Amendment) Act, 1941 (23 of 1941), but effect is not to be given to them in the making of any assessment for any year before the year ending 31st March, 1943.

[13a] Inserted by s. 13 of the Finance Act, 1956, with effect from the 1st April, 1956.

[14] Inserted by s. 8 of the Indian Finance Act, 1948 (20 of 1948).

[15] Inserted by s. 15 of the Taxation Laws (Extension to Merged States and Amendment) Act, 1949 (67 of 1949).

[16] Substituted for "British India" by the Adaptation of Laws Order, 1950.

[17] Inserted by s. 5 of Ordinance No. 9 of 1945.

[18] Inserted by s. 8 of the I. T. and E. P. T. (Amendment) Act, 1947 (22 of 1947).

[19][(*ii*) on the whole amount of such inclusion, income-tax equal to the amount which bears to the income-tax which would have been payable on his total income as reduced by two-thirds of the amount of such inclusion the same proportion as the whole amount of such inclusion bears to such reduced total income : **Div. 1 Ss.17-18**

Provided that where the amount of such inclusion does not exceed the sum of five thousand rupees or the total income does not exceed the sum of ten thousand rupees such income-tax shall be nil and in any other case such income-tax shall not exceed one-half of the amount by which the amount of such inclusion exceeds the sum of five thousand rupees.]

[19][(7) Where the total income of a company includes any income chargeable under the head "Capital gains", the super-tax payable by it shall be calculated on its total income as reduced by the amount of such inclusion.]]

CHAPTER IV

DEDUCTIONS AND ASSESSMENT

18. Payment by deduction at source.—(1) [20][* * * *]

(2) Any person responsible for paying any income chargeable under the head "Salaries" shall, at the time of payment, deduct income-tax [21][and super-tax] on the amount payable [22][at a rate representing the average of the rates applicable to the estimated total income of the assessee under this head] : (R. 11 11A.)

Provided that such person may, at the time of making any deduction, increase or reduce the amount to be deducted under this sub-section for the purpose of adjusting any excess or deficiency arising out of any previous deduction or failure to deduct.

[23][(2A) Notwithstanding anything hereinbefore contained for the purpose of making the deduction under sub-section (2), there shall be included in the amount payable any income chargeable under the head "Salaries" which is payable to the assessee out of India by or on behalf of the [24][Government], and the value in rupees of such income shall be calculated at the prescribed rate of exchange.] (R. 10A.)

[25][(2B) Any person responsible for paying any income chargeable under the head "Salaries" to a person not resident in [1][the taxable territories] shall at the

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[19] Substituted by s. 5 of the Finance (No. 3) Act, 1956, with effect from the 1st April, 1957.

[20] Omitted by s. 7 of the Indian I. T. (Second Amendment) Act, 1933 (18 of 1933).

[21] Substituted for "but not super-tax" by s. 20 of the Indian I. T. (Amendment) Act, 1939 (7 of 1939).

[22] Substituted for "at the rate applicable to the estimated income of the assessee under this head," *ibid.*

[23] Inserted by s. 2 of the Indian I. T. (Second Amendment) Act, 1925 (16 of 1925).

[24] Substituted for "Crown" by the Adaptation of Laws Order, 1950. "The Crown" had been substituted for "Government" by the Government of India (Adaptation of Indian Laws) Order, 1937.

[25] Inserted by s. 20 of the Indian I. T. (Amendment) Act, 1939 (7 of 1939).

[1] Substituted for "British India" by the Adaptation of Laws Order, 1950.

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time of payment deduct income-tax at the maximum rate and also super-tax [2][on the estimated income of the assessee under this head in accordance with the provisions of clause (*b*) of sub-section (1) of section 17 :

Provided that where—

(*i*) the person not so resident has obtained a certificate in writing from the Income-tax Officer (which certificate the Income-tax Officer shall be bound to give in every proper case on the application of the assessee) stating that income-tax and super-tax may be deducted at the rates specified therein, or

(*ii*) the Income-tax Officer has, by an order in writing, required the person responsible for making payment to deduct income-tax and super-tax at the rates specified in that order,

the person responsible for making payment shall, until such certificate or order is cancelled by the Income-tax Officer, deduct income-tax and super-tax at the rates specified in such certificate or order, as the case may be.]]

(R. 12.)

(3) The person responsible for paying any income chargeable under the head "Interest on securities" shall, [3][unless otherwise prescribed in the case of any security of the [4][Central Government]], at the time of payment, deduct income-tax [3][but not super-tax] on the amount of the interest payable at the maximum rate :

(R. 12C.)

[3][Provided that where the Income-tax Officer gives a certificate in writing (which certificate he shall give in every proper case on the application of the assessee) that to the best of his belief the total income [4a][or the total world income] of a recipient will be less than the minimum liable to income-tax or will be liable to a rate of income-tax less than the maximum rate, the person responsible for paying any income [5][referred to in this sub-section or in sub-section (2B), as the case may be,] to such recipient shall, until such certificate is cancelled by the Income-tax Officer, pay the income without deduction or deduct the tax at such less rate, as the case may be.]

[6][(3A) The person responsible for paying any income chargeable under the head "Interest on securities" to a person whom he has no reason to believe to be resident in the taxable territories, shall, at the time of payment, deduct super-tax on the amount of such interest—

(*i*) if such person is a company, at the rate applicable to a company,

(*ii*) if such person is not a company, in accordance with the provisions of clause (*b*) of sub-section (1) of section 17 :

(R. 12A.)

Provided that where such person is not a company, the proviso to sub-section (2B) shall apply to the deduction of super-tax under this sub-section as it applies to the deduction of super-tax under sub-section (2B).

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[2] Substituted for "at the rate or rates applicable to the estimated income of the assessee under this head" by s. 12 of the Indian I. T. (Amendment) Act, 1953 (25 of 1953), with effect from the 1st April, 1952.

[3] Inserted by s. 7 of the Indian I. T. (Second Amendment) Act, 1933 (18 of 1933).

[4] Substituted for "Government of India" by the Government of India (Adaptation of Indian Laws) Order, 1937.

[4a] Inserted by s. 20 of the Indian I. T. (Amendment) Act, 1939 (7 of 1939).

[5] Substituted for "herein referred to" by s. 20 of the Indian I. T. (Amendment) Act, 1939 (7 of 1939).

[6] Substituted by s. 12 of the Indian I. T. (Amendment) Act, 1953 (25 of 1953), with effect from the 1st April, 1952.

(3B) Any person responsible for paying to a person not resident in the *territories any interest not being "Interest on securities" or any other sum chargeable under the provisions of this Act shall, at the time of payment, unless he is himself liable to pay any income-tax and super-tax thereon as an agent, deduct income-tax at the maximum rate and super-tax at the rate applicable to a company or in accordance with the provisions of sub-clause (*b*) of sub-section (1) of section 17, as the case may be: Div. 1 S. 18

Provided that where the person not resident is not a company, the proviso to sub-section (2B) shall apply to the deduction of income-tax and super-tax under this sub-section as it applies to the deduction of income-tax and super-tax under sub-section (2B): (R. 12A.)

Provided further that nothing in this section shall apply to any payment made in the course of transactions in respect of which a person responsible for the payment is deemed under the first proviso to section 43 not to be an agent of the payee.

(3C) Where the person responsible for paying any sum chargeable under this Act other than interest, to a person not resident in the taxable territories, considers that the whole of such sum would not be income chargeable in the case of the recipient, he may make an application to the Income-tax Officer to determine, by general or special order, the appropriate proportion of such sum so chargeable and upon such determination tax shall be deducted therefrom by the person responsible for making such payment in accordance with the provisions of sub-section (3B). (R. 12A.)

(3D) The principal officer of an Indian company or a company which has made such effective arrangements as may be prescribed for the deduction of super-tax from dividends shall, at the time of paying any dividend to a shareholder whom the principal officer has no reason to believe to be resident in the taxable territories, deduct super-tax on the amount of such dividend as increased in accordance with the provisions of sub-section (2) of section 16—

(*i*) if the shareholder is a company, at the rate applicable to a company,

(*ii*) if the shareholder is a person other than a company, in accordance with the provisions of clause (*b*) of sub-section (1) of section 17:

Provided that in the case of a shareholder other than a company, the proviso to sub-section (2B) shall apply to the deduction of super-tax under this sub-section as it applies to the deduction of super-tax under sub-section (2B).] (R. 12A, 13D.)

(4) All sums deducted in accordance with the provisions of this section shall, for the purpose of computing the income of an assessee, be deemed to be income received.

(5) Any deduction made [7][and paid to the account of the Central Government] in accordance with the provisions of this section [8][and any sum by which a dividend has been increased under sub-section (2) of section 16] shall be treated as a payment of income-tax [9][or super-tax] on behalf of the person from whose income the deduction was made, or of the owner of the security [8][or of the shareholder], as the case

* The word "taxable" which should occur here seems to have been inadvertently omitted by the draftsman.

[7] Inserted by s. 12 of the Indian I. T. (Amendment) Act, 1953 (25 of 1953), with effect from the 1st April, 1952.

[8] Inserted by s. 20 of the Indian I. T. (Amendment) Act, 1939 (7 of 1939).

[9] Inserted by s. 7 of the Indian I. T. (Second Amendment) Act, 1933 (18 of 1933).

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may be, and credit shall be given to him therefor [10][on the production of the certificate furnished under sub-section (9) or section 20, as the case may be,] in the assessment, if any, made for the following year under this Act:

Provided that if such person or such owner obtains, in accordance with the provisions of this Act, a refund of any portion of the tax so deducted, no credit shall be given for the amount of such refund:

[11][Provided further that where such person or owner is a person whose income is included under the provisions of [12][clause (*c*) of sub-section (1) or sub-section (3) of section 16, section 44D or section 44E] in the total income of another person [13][such other person] shall be deemed to be the person or owner on whose behalf payment has been made and to whom credit shall be given in the assessment for the following year:]

[14][Provided further that where any security or share in a company is owned jointly by two or more persons not constituting a partnership, credit in respect of the tax deducted or in respect of any sum by which the dividend has been increased under sub-section (2) of section 16, may be given to each such person in the same proportion in which the interest on such security or dividend on such share has been included in his total income.]

(R. 10, 11A, 12B.)

(6) All sums deducted in accordance with the provisions of this section shall be paid within the prescribed time by the person making the deduction to the credit of the [15][Central Government] or as the [16][Central Board of Revenue] directs.

(7) If any such person does not deduct [17][or after deducting fails to pay] the tax as required by [18][or under] this section, [19][he, and in the cases specified in [20][sub-section (3D)] the company of which he is the principal officer] shall, without prejudice to any other consequences which [19][he or it] may incur, be deemed to be [21][an assessee] in default in respect of the tax:

[22][Provided that the Income-tax Officer shall not make a direction under sub-section (1) of section 46 for the recovery of any penalty from such person unless satisfied that such person has wilfully failed to deduct and pay the tax.]

(8) The power to levy by deduction under this section shall be without prejudice to any other mode of recovery.

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[10] Inserted by s. 12 of the Indian I. T. (Amendment) Act, 1953 (25 of 1953), with effect from the 1st April, 1952.

[11] Added by s. 3 of the Indian I. T. (Amendment) Act, 1937 (4 of 1937).

[12] Substituted for "sub-section (3) of section 16" by s. 20 of the Indian I. T. (Amendment) Act, 1939 (7 of 1939).

[13] Substituted for "that person," *ibid.*

[14] Inserted by s. 12 of the Indian I. T. (Amendment) Act, 1953 (25 of 1953), with effect from the 1st April, 1952.

[15] Substituted for "Government of India" by the Government of India (Adaptation of Indian Laws) Order, 1937.

[16] Substituted for "Board of Inland Revenue" by s. 4 and Sch. of the Central Board of Revenue Act, 1924 (4 of 1924).

[17] Substituted for "and pay" by s. 20 of the Indian I. T. (Amendment) Act, 1939 (7 of 1939).

[18] Inserted by s. 7 of the Indian I. T. (Second Amendment) Act, 1933 (18 of 1933).

[19] Substituted for "he" by s. 20 of the Indian I. T. (Amendment) Act, 1939 (7 of 1939).

[20] Substituted for "sub-sections (3D) and (3E)" by s. 12 of the Indian I. T. (Amendment) Act, 1953 (25 of 1953), with effect from the 1st April, 1952.

[21] Substituted for "personally" by s. 7 of the Indian I. T. (Second Amendment) Act, 1933 (18 of 1933).

[22] Inserted, *ibid.*

(9) Every person deducting income-tax [23][or super-tax] in accordance with the provisions of [24][sub-section (3), (3A), (3B) [25][or (3D)]] shall, [1][at the time of payment of the sum from which tax has been deducted], furnish to the person to whom [2][such payment is made] a certificate to the effect that income-tax [23][or super-tax] has been deducted, and specifying the amount so deducted, the rate at which the tax has been deducted, and such other particulars as may be prescribed. **Div. 1 Ss. 18-18A (R. 13, 13A, 13B, 13C.)**

[3][*Explanation.*—For the purposes of this section and section 20A, the expression "person responsible for paying" means—

(*i*) in the case of payments of income chargeable under the head "Salaries" other than payments by the Central Government or the Government of a State, the employer himself or if the employer is a company, the company itself including the principal officer thereof;

(*ii*) in the case of payments of income chargeable under the head "Interest on securities" other than payments made by or on behalf of the Central Government or the Government of a State, the local authority or company including the principal officer thereof;

(*iii*) in the case of payment of interest not being "Interest on securities", the payer himself or if the payer is a company, the company itself including the principal officer thereof.]

[4][**18A. Advance payment of tax.**—(1) (*a*) In the case of income in respect of which provision is not made under section 18 for deduction of income-tax at the time of payment, the Income-tax Officer may, on or after the 1st day of April in any financial year, by order in writing, require an assessee to pay quarterly to the credit of the Central Government on the 15th day of June, 15th day of September, 15th day of December and 15th day of March in that year, respectively, an amount equal to one-quarter of the income-tax and super-tax payable on so much of such income as is included in his total income of the latest previous year in respect of which he has been assessed, [5][if that total income exceeded the maximum amount not chargeable to tax in his case by two thousand five hundred rupees]. Such income-tax and super-tax shall be calculated at the rates in force for the financial year in which he is required to pay the tax, and shall bear to the total amount of income-tax and super-tax so calculated on the said total income the same proportion as the amount of such inclusions bears to his total income or, in cases where under the provisions of sub-section (1) of section 17 both income-tax and super-tax or super-tax are chargeable with reference to the total world income, shall bear to the total amount of income-tax and super-tax which would have been payable on his total world income of the said previous year had it been his total income the same proportion as the amount of such inclusions bears to his total world income: **(R. 20A.)**

[23] Inserted, *ibid.*

[24] Substituted for "sub-section (3)", *ibid.*

[25] Substituted for "(3C), (3D) or (3E)" by s. 12 of the Indian I. T. (Amendment) Act, 1953 (25 of 1953), with effect from the 1st April, 1952.

[1] Substituted for "at the time of payment of interest or dividends" by s. 20 of the Indian I. T. (Amendment) Act, 1939 (7 of 1939).

[2] Substituted for "the interest is paid" by s. 2 and Sch. 1 of the Repealing and Amending Act, 1935 (12 of 1935).

[3] Inserted by s. 12 of the Indian I. T. (Amendment) Act, 1953 (25 of 1953), with effect form the 1st April, 1952.

[4] Inserted by s. 5 of the Indian I. T. (Amendment) Act, 1944 (11 of 1944).

[5] Substituted for "if that total income exceeded six thousand rupees" by s. 13 of the Indian I. T. (Amendment) Act, 1953 (25 of 1953), with effect from the 1st April, 1952.

Div. 1 S. 18A

Provided that, where the previous year of the assessee in respect of any source of income ends after the 31st day of December and before the 30th day of April, the order in writing issued by the Income-tax Officer requiring the payment of income-tax and super-tax on that source of income shall substitute for the four quarterly payments hereinbefore specified, three payments of equal amount to be made on the 15th day of September, the 15th day of December and the 15th day of March, respectively :

Provided further that, if the assessee is a partner of a registered firm and an assessment of the firm has been completed for a previous year later than that for which the assessee's last assessment has been completed, his share in the profits of the firm shall, for the purposes of this sub-section, be included in his total income on the basis of the latest assessment of the firm :

Provided further that, if after the making of an order by the Income-tax Officer and before the 15th day of February of the financial year an assessment of the assessee or of the registered firm of which he is a partner is completed in respect of a previous year later than that referred to in the order of the Income-tax Officer, the Income-tax Officer may make an amended order requiring the assessee to pay in one instalment on the specified date, or in equal instalments on the specified dates if more than one, falling after the date of the amended order, the tax computed on the revised basis as reduced by the amount, if any, paid in accordance with the original order ; but if the amount already paid exceeds the tax determined on the revised basis, the excess shall be refunded.

(*b*) If the notice of demand issued under section 29 in pursuance of the order under clause (*a*) of this sub-section is served after any of the dates on which the instalments specified therein are payable, the tax shall be payable in equal instalments on each of such of those dates as fall after the date of the service of the notice of demand, or in one sum on the 15th day of March if the notice is served after the 15th day of December.

(2) If any assessee who is required to pay tax by an order under sub-section (1) estimates at any time before the last instalment is due that the part of his income to which that sub-section applies for the period which would be the previous year for an assessment for the year next following is less than the income on which he is required to pay tax and accordingly wishes to pay an amount less than the amount which he is so required to pay, he may send to the Income-tax Officer an estimate of the tax payable by him calculated in the manner laid down in sub-section (1) on that part of his income for such period, and shall pay such amount as accords with his estimate in equal instalments on such of the dates specified in sub-section (1)(*a*) as have not expired or in one sum if only the last of such dates has not expired :

Provided that the assessee may send a revised estimate of the tax payable by him before any one of the dates specified in sub-section (1)(*a*) and adjust any excess or deficiency in respect of any instalment already paid in a subsequent instalment or in subsequent instalments.

(3) Any person who has not hitherto been assessed shall, before the 15th day of March in each financial year, if his total income of the period which would be the previous year for an assessment for the financial year next following [6][is likely to exceed the maximum amount not chargeable to tax in his case by two thousand five hundred rupees], send to the Income-tax Officer an estimate of

[6] Substituted for "is likely to exceed six thousand rupees" by s. 13 of the Indian I.T. (Amendment) Act, 1953 (25 of 1953), with effect from the 1st April, 1952.

the tax payable by him on that part of his income to which the provisions of section 18 do not apply of the said previous year calculated in the manner laid down in sub-section (1), and shall pay the amount, on such of the dates specified in that sub-section as have not expired, by instalments which may be revised according to the proviso to sub-section (2).

(4) Where part of the income to which sub-section (1), (2) or (3) applies consists of any income of the nature of commission which is receivable periodically and is not received or adjusted by the payer in the assessee's account before any of the quarterly instalments of tax become due, he may defer payment of tax on that part of his income to the date on which such income would be normally received or adjusted and if he does so he shall communicate to the Income-tax Officer the date to which such payment is deferred :

Provided that, if the tax of which the payment is deferred is not paid within fifteen days of the date on which such income or part thereof is received or adjusted by the payer in the assessee's account, the tax shall be payable with six per cent simple interest per annum from the date of such receipt or adjustment to the date of payment of the tax.

(5) [6a][The Central Government shall pay simple interest—

(*i*) at two per cent per annum on any amount payable in accordance with the provisions of this section before the 1st day of April, 1955, and paid accordingly ;

(*ii*) at four per cent per annum on any amount payable in accordance with the provisions of this section after the 1st day of April, 1955, and paid accordingly ;]

from the date of payment [7][to the date of the provisional assessment made under section 23B, or if no such assessment has been made,] to the date of the assessment (hereinafter called the 'regular assessment') made under section 23 of the income, profits and gains of the previous year for an assessment for the year next following the year in which the amount was payable :

Provided that on any portion of such amount which is refunded under the foregoing provisions of this section interest shall be payable only up to the date on which the refund was made :

[8][Provided further that for any period beginning with the 1st day of April, 1952, interest shall be payable only on the amount by which the aggregate sum of any instalments paid during any financial year in which they are payable under this section exceeds the amount of the tax determined on regular assessment calculated as hereunder—

(*i*) in respect of such instalments paid in any financial year before the said date, from the said date to the date of the regular assessment ;

(*ii*) in respect of such instalments paid after the said date, from the beginning of the financial year next following to the date of the regular assessment.]

[6a] Substituted for "The Central Government shall pay on any amount paid under this section simple interest at two per cent per annum" by s. 14 of the Finance Act, 1955, with effect from the 1st April, 1955.

[7] Inserted by s. 16 of the Taxation Laws (Extension to Merged States and Amendment) Act, 1949 (67 of 1949).

[8] Inserted by s. 13 of the Indian I. T. (Amendment) Act, 1953 (25 of 1953), with effect from the 1st April, 1952.

Div. 1 S. 18A

(6) Where in any year an assessee has paid tax under sub-section (2) or sub-section (3) on the basis of his own estimate, and the tax so paid is less than eighty per cent of the tax determined on the basis of the regular assessment, so far as such tax relates to income to which the provisions of section 18 do not apply and so far as it is not due to variations in the rates of tax made by the Finance Act enacted for the year for which the regular assessment is made, simple interest at the rate of six per cent per annum from the 1st day of January in the financial year in which the tax was paid up to the date of the said regular assessment shall be payable by the assessee upon the amount by which the tax so paid falls short of the said eighty per cent :

[9][Provided that for any period after the 31st day of March, 1952, interest shall be payable at the rate of four per cent per annum :]

[10][Provided [9][further] that where a provisional assessment is made under section 23B, interest shall be calculated in accordance with the foregoing provision up to the date on which the tax as provisionally assessed is paid, and thereafter interest shall be calculated at the rate aforesaid on the amount by which the tax as so assessed (in so far as it relates to income to which the provisions of section 18 do not apply) falls short of the said eighty per cent :]

Provided [10][also] that, where, as a result of an appeal under section 31 or section 33 or of a revision under section 33A or of a reference to the High Court under section 66, the amount on which interest was payable under this sub-section has been reduced the interest shall be reduced accordingly and the excess interest paid, if any, shall be refunded together with the amount of income-tax that is refundable :

Provided further that, where a business, profession or vocation is newly set up and is assessable on the income, profits and gains of its first previous year in the financial year following that in which it is set up, the interest payable shall be computed from the 1st day of April of the said financial year :

(R. 48.)

[9][Provided further that in such cases and under such circumstances as may be prescribed, the Income-tax Officer may reduce or waive the interest payable by the assessee.]

(7) Where, on making the regular assessment, the Income-tax Officer finds that any assessee has—

(*a*) under sub-section (2) or sub-section (3) underestimated the tax payable by him and thereby reduced the amount payable in any of the first three instalments, or

(*b*) under sub-section (4) wrongly deferred the payment of tax on a part of his income,

he may direct that the assessee shall pay simple interest at six per cent. per annum, in the case referred to in clause (*a*) for the period during which the payment was deficient on the difference between the amount paid in each such instalment and the amount which should have been paid having regard to the aggregate tax

[9] Inserted by s. 13 of the Indian I. T. (Amendment) Act, 1953 (25 of 1953), with effect from the 1st April, 1952.

[10] Inserted by s. 16 of the Taxation Laws (Extension to Merged States and Amendment) Act, 1949 (67 of 1949).

actually paid under this section during the year, and in the case referred to in clause (*b*) for the period during which the payment of tax was wrongly deferred on the amount of which the payment was so deferred : **Div. 1 S. 18A**

Provided that for the purposes of this sub-section any instalment due before the expiry of six months from the commencement of the previous year in respect of which it is to be paid shall be deemed to have become due fifteen days after the expiry of the said six months.

(8) Where, on making the regular assessment, the Income-tax Officer finds that no payment of tax has been made in accordance with the foregoing provisions of this section, interest calculated in the manner laid down in sub-section (6) shall be added to the tax as determined on the basis of the regular assessment.

(9) If the Income-tax Officer, in the course of any proceedings in connection with the regular assessment, is satisfied that any assessee—

(*a*) has furnished under sub-section (2) or sub-section (3) estimates of the tax payable by him which he knew or had reason to believe to be untrue, or

(*b*) has without reasonable cause failed to comply with the provisions of sub-section (3),

the assessee shall be deemed, in the case referred to in clause (*a*), to have deliberately furnished inaccurate particulars of his income, and in the case referred to in clause (*b*), to have failed to furnish the return of his total income ; and the provisions of section 28, so far as may be, shall apply accordingly :

Provided that the amount of penalty leviable shall, in the case referred to in clause (*a*), be a sum not exceeding one-and-a-half times the amount by which the tax actually paid during the year under the provisions of this section falls short of the tax that should have been paid by the assessee under sub-section (1) or eighty per cent. of the tax determined on the basis of the regular assessment as modified in the manner provided in sub-section (6), whichever is the less, and, in the case referred to in clause (*b*), one-and-a-half times the said eighty per cent.

(10) (*a*) If any assessee does not pay on the specified dates any instalment of tax that he is required to pay under sub-section (1) and does not, before the date on which any such instalment as is not paid becomes due, send under sub-section (2) an estimate or a revised estimate of the tax payable by him, he shall be deemed to be an assessee in default in respect of such instalment or instalments.

(*b*) If any assessee has sent under sub-section (2) or sub-section (3) an estimate or a revised estimate of the tax payable by him, but does not pay any instalment in accordance therewith on the date or dates specified in sub-section (1), he shall be deemed to be an assessee in default in respect of such instalment or instalments :

Provided that the assessee shall not, under clause (*a*) or (*b*), be deemed to be in default in respect of any amount of which the payment is deferred under sub-section (4) until after the date communicated by him to the Income-tax Officer under that sub-section.

Div. 1 Ss. 18A-21

(11) Any sum other than a penalty or interest paid by or recovered from an assessee in pursuance of the provisions of this section shall be treated as a payment of tax in respect of the income of the period which would be the previous year for an assessment for the financial year next following the year in which it was payable, and credit therefor shall be given to the assessee in the regular assessment.]

[11][(12) Any income chargeable under the head "Capital gains" shall not be taken into account for any of the purposes of this section.]

[12][19. **Payment in other cases.**—In the case of income in respect of which provision is not made under section 18 for deduction of income-tax at the time of payment, and in any case where income-tax has not been deducted in accordance with the provisions of section 18, income-tax shall be payable by the assessee direct.]

(R. 13D, 42, 43.)

[13][19A. **Supply of information regarding dividends.**—The principal officer of every company [14][which is an Indian company or a company which has made such effective arrangements as may be prescribed for the declaration and payment of dividends in [15][the taxable territories]] shall, on or before the 15th day of June in each year, furnish to the prescribed officer a return in the prescribed form and verified in the prescribed manner of the names and of the addresses, as entered in the register of shareholders maintained by the company, of the shareholders to whom a dividend or aggregate dividends exceeding such amount as may be prescribed in this behalf has or have been distributed during the preceding year and of the amount so distributed to each such shareholder.]

(R. 14.)

20. **Certificate by company to shareholders receiving dividends.**—The principal officer of every company shall, at the time of distribution of dividends, furnish to every person receiving a dividend a certificate to the effect that the company has paid or will pay income-tax on the profits which are being distributed, and specifying such other particulars as may be prescribed.

(R. 42A, 43A.)

[16][20A. **Supply of information regarding interest.**—The person responsible for paying any interest not being "Interest on securities" shall, on or before the 15th day of June in each year, furnish to the prescribed officer a return in the prescribed form and verified in the prescribed manner of the names and addresses of all persons to whom during the previous financial year he has paid interest or aggregate interest exceeding such amount not being less than [17][four hundred] rupees as may be prescribed in this behalf, together with the amount paid to each such person.]

(R. 15.)

21. **Annual return.**—The prescribed person in the case of every Government office, and the principal officer or the prescribed person in the case of every local authority, company or other public body or association, and every private

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[11] Inserted by s. 9 of the I. T. and E. P. T. (Amendment) Act, 1947 (22 of 1947).

[12] Substituted by s. 21 of the Indian I. T. (Amendment) Act, 1939 (7 of 1939).

[13] Inserted by s. 2 of the Indian I. T. (Amendment) Act, 1926 (24 of 1926).

[14] Inserted by s. 8 of the Indian Finance Act, 1948 (20 of 1948).

[15] Substituted for "British India" by the Adaptation of Laws Order, 1950.

[16] Inserted by s. 9 of the Indian I. T. (Second Amendment) Act, 1933 (18 of 1933).

[17] Substituted for "one thousand" by s. 22 of the Indian I. T. (Amendment) Act, 1939 (7 of 1939).

employer shall prepare, and, within thirty days from the 31st day of March in each year, deliver or cause to be delivered to the Income-tax Officer in the prescribed form [18][and verified in the prescribed manner], a return in writing showing—

(a) the name and, so far as it is known, the address of every person who was receiving on the said 31st day of March, or has received [18][or to whom was due] during the year ending on that date, from the authority, company, body, association or private employer, as the case may be, any income chargeable under the head "Salaries" of such amount as may be prescribed; (R. 16, 17.)

(b) the amount of the income so received [18][or so due] by each such person, and the time or times at which the same was paid [18][or due, as the case may be];

(c) the amount deducted in respect of income-tax [18][and super-tax] from the income of each such person.

22. Return of income.—[19][(1) The Income-tax Officer shall, on or before the 1st day of May in each year, give notice, by publication in the press and by publication in the prescribed manner, requiring every person whose total income during the previous year exceeded the maximum amount which is not chargeable to income-tax to furnish, within such period not being less than sixty days as may be specified in the notice, a return, in the prescribed form and verified in the prescribed manner, setting forth (along with such other particulars as may be required by the notice) his total income and total world income during that year: (R. 18, 18A, 19.)

Provided that the Income-tax Officer may in his discretion extend the date for the delivery of the return in the case of any person or class of persons.]

(2) In the case of any person [20][* * *] whose total income is, in the Income-tax Officer's opinion, of such an amount as to render such person liable to income-tax, the Income-tax Officer [21][may serve] a notice upon him requiring him to furnish, within such period, not being less than thirty days, as may be specified in the notice, a return in the prescribed form and verified in the prescribed manner setting forth (along with such other particulars as may be provided for in the notice) his total income [22][and total world income] during the previous year: (R. 19.)

[22][Provided that the Income-tax Officer may in his discretion extend the date for the delivery of the return.]

[23][(2A) If any person who has not been served with a notice under sub-section (2) has sustained a loss of profits or gains in any year under the head "Profits and gains of business, profession or vocation", and such loss or any part thereof would ordinarily have been carried forward under sub-section (2) of section 24, he shall, if he is to be entitled to the benefit of the carry forward of loss in any subsequent assessment, furnish within the time specified in the general notice given under sub-section (1) or within such further time as the Income-tax Officer in any case may allow, all the particulars required under the prescribed form of return of total (R. 19.)

[18] Inserted by s. 23, *ibid.*

[19] Substituted by s. 24, *ibid.*

[20] "Other than a company" omitted, *ibid.*

[21] Substituted for "shall serve," *ibid.*

[22] Inserted, *ibid.*

[23] Inserted by s. 14 of the Indian I. T. (Amendment) Act, 1953 (25 of 1953), with effect from the 1st April, 1952.

Div. 1 Ss. 22-23

income and total world income in the same manner as he would have furnished a return under sub-section (1) had his income exceeded the maximum amount not liable to income-tax in his case, and all the provisions of this Act shall apply as if it were a return under sub-section (1).]

(3) If any person has not furnished a return within the time allowed by or under sub-section (1) or sub-section (2), or having furnished a return under either of those sub-sections, discovers any omission or wrong statement therein, he may furnish a return or a revised return, as the case may be, at any time before the assessment is made [24][* * *].

(R. 19A.) (4) The Income-tax Officer may serve [25][* * *] on any person [25a][who has made a return under sub-section (1) or] upon whom a notice has been served under sub-section (2) a notice requiring him, on a date to be therein specified, to produce, or cause to be produced, such accounts or documents as the Income-tax Officer may require, [1][or to furnish in writing and verified in the prescribed manner information in such form and on such points or matters (including, with the previous approval of the Commissioner, a statement of all assets and liabilities not included in the accounts) as the Income-tax Officer may require for the purposes of this section]:

Provided that the Income-tax Officer shall not require the production of any accounts relating to a period more than three years prior to the previous year.

(R. 19.) [2][(5) The prescribed form of the returns referred to in sub-sections (1) and (2) shall, in the case of an assessee engaged in any business, profession or vocation, require him to furnish particulars of the location and style of the principal place wherein he carries on the business, profession or vocation and of any branches thereof, the names and addresses of his partners, if any, in such business, profession or vocation and the extent of the share of the assessee and the shares of all such partners in the profits of the business, profession or vocation and any branches thereof.]

23. Assessment.—(1) If the Income-tax Officer is satisfied [3][without requiring the presence of the assessee or the production by him of any evidence] that a return made under section 22 is correct and complete, he shall assess the total income of the assessee, and shall determine the sum payable by him on the basis of such return.

(2) If the Income-tax Officer [4][is not satisfied without requiring the presence of the person who made the return or the production of evidence that a return made under section 22 is correct and complete, he shall serve on such person] a notice requiring him, on a date to be therein specified, either to attend at the Income-tax Officer's office or to produce, or to cause to be there produced, any evidence on which such person may rely in support of the return.

(3) On the day specified in the notice issued under sub-section (2), or as soon afterwards as may be, the Income-tax Officer, after hearing such evidence as such person may produce and such other evidence as the Income-tax Officer may

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[24] "And any return so made shall be deemed to be a return made in due time under this section" omitted by s. 24 of the Indian I. T. (Amendment) Act, 1939 (7 of 1939).

[25] "On the principal officer of any company or" omitted, *ibid.*

[25a] Inserted, *ibid.*

[1] Inserted by s. 14 of the Indian I. T. (Amendment) Act, 1953 (25 of 1953), with effect from the 1st April, 1952.

[2] Added by s. 24 of the Indian I. T. (Amendment) Act, 1939 (7 of 1939).

[3] Inserted by s. 25, *ibid.*

[4] Substituted for the original words, *ibid.*

require, on specified points, shall, by an order in writing, assess the total income of the assessee, and determine the sum payable by him on the basis of such assessment. **Div. 1 S. 23**

(4) [4a][If any person fails to make the return required by any notice given under sub-section (2) of section 22 and has not made a return or a revised return under sub-section (3) of the same section] or fails to comply with all the terms of a notice issued under sub-section (4) of the same section or, having made a return, fails to comply with all the terms of a notice issued under sub-section (2) of this section, the Income-tax Officer shall make the assessment to the best of his judgment [5][and determine the sum payable by the assessee on the basis of such assessment] [6][and, [7][in the case of a firm, may refuse to register it or may cancel its registration if it is already registered] :]

[8][Provided that the registration of a firm shall not be cancelled until fourteen days have elapsed from the issue of a notice by the Income-tax Officer to the firm intimating his intention to cancel its registration.]

[9][(5) Notwithstanding anything contained in the foregoing sub-sections, when the assessee is a firm and the total income of the firm has been assessed under sub-section (1), sub-section (3) or sub-section (4), as the case may be,—

(*a*) in the case of a registered firm,

[9a][(*i*) the income-tax payable by the firm itself shall be determined ; and

(*ii*) the total income of each partner of the firm, including therein his share of its income, profits and gains of the previous year, shall be assessed and the sum payable by him on the basis of such assessment shall be determined :]

Provided that if such share of any partner is a loss it shall be set off against his other income or carried forward and set off in accordance with the provisions of section 24 :

Provided further that when any of such partners is a person not resident in [10][the taxable territories], his share of the income, profits and gains of the firm shall be assessed on the firm at the rates which would be applicable if it were assessed on him personally, and the sum so determined as payable shall be paid by the firm :

[4a] Substituted for the original words, *ibid.*

[5] Inserted, *ibid.*

[6] The original words were added by s. 3 of the Indian I. T. (Amendment) Act, 1930 (21 of 1930).

[7] Substituted for "in the case of a registered firm, may cancel its registration" by s. 25 of the Indian I. T. (Amendment) Act, 1939 (7 of 1939).

[8] Added by s. 3 of the Indian I. T. (Amendment) Act, 1930 (21 of 1930).

[9] Added by s. 25 of the Indian I. T. (Amendment) Act, 1939 (7 of 1939).

[9a] Substituted for "the sum payable by the firm itself shall not be determined but the total income of each partner of the firm, including therein his share of its income, profits and gains of the previous year, shall be assessed and the sum payable by him on the basis of such assessment shall be determined" by s. 14 of the Finance Act, 1956, with effect from the 1st April, 1956.

[10] Substituted for "British India" by the Adaptation of Laws Order, 1950.

Div. 1 Ss. 23-23A

[11][Provided also that if at the time of assessment of any partner of a registered firm, the Income-tax Officer is of opinion that the partner is residing in Pakistan, the partner's share of the income, profits and gains of the firm shall be assessed on the firm in the manner laid down in the preceding proviso and the sum so determined as payable shall be paid by the firm; and]

[11a][(*b*) in the case of an unregistered firm, the Income-tax Officer may, instead of determining the sum payable by the firm itself, proceed to assess the total income of each partner of the firm, including therein his share of its income, profits and gains of the previous year, and determine the tax payable by each partner on the basis of such assessment, if, in the Income-tax Officer's opinion, the aggregate amount of the tax including super-tax, if any, payable by the partners under such procedure would be greater than the aggregate amount which would be payable by the firm and the partners individually, if separately assessed; and where the procedure specified in this clause is applied to any unregistered firm, the provisoes to clause (*a*) of this sub-section shall apply thereto as they apply in the case of a registered firm.]]

[12][(6) Whenever the Income-tax Officer makes a determination in accordance with the provisions of sub-section (5), he shall notify to the firm by an order in writing the amount of the total income on which the determination has been based and the apportionment thereof between the several partners.]

[12a]**[23A. Power to assess companies to super-tax on undistributed income in certain cases.**—[12b][(1) Where the Income-tax Officer is satisfied that in respect of any previous year the profits and gains distributed as dividends by any company within the twelve months immediately following the expiry of that previous year are less than the statutory percentage of the total income of the company of that previous year as reduced by—

(*a*) the amount of income-tax and super-tax payable by the company in respect of its total income, but excluding the amount of any super-tax payable under this section;

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[11] Added by the India (Adaptation of Income-tax, Profits Tax and Revenue Recovery Acts) Order, 1947 (G. G. O. 31).

[11a] Substituted by s. 14 of the Finance Act, 1956, with effect from the 1st April, 1956.

[12] Added by s. 12 of the Indian I. T. (Amendment) Act, 1941 (23 of 1941).

[12a] Substituted by s. 15 of the Finance Act, 1955, with effect from the 1st April, 1955.

"For the removal of doubts, it is hereby declared that the provisions of section 23A of the Income-tax Act, as in force immediately before the 1st day of April, 1955, shall continue to apply to a company in respect of its profits and gains of a previous year relevant to any assessment year prior to the assessment year ending on the 31st day of March, 1956, and also to its shareholders referred to in sub-section (1) of section 23A as then in force in respect of their appropriate previous years, notwithstanding that the relevant assessment years in respect of such previous years end on or after the 31st day of March, 1956."—*S.* 20(4) *of the Finance Act,* 1955.

[12b] Substituted for the original sub-sections (1) and (2) by s. 7 of the Finance (No. 2) Act, 1957, with effect from the 1st April, 1957.

"For the removal of doubts, it is hereby declared that the provisions of section 23A of the Income-tax Act, as in force immediately before the 1st day of April, 1957, shall continue to apply to a company in respect of its profits and gains of a previous year relevant to any assessment year prior to the assessment year ending on the 31st day of March, 1958." — *S.* 11(4) *of the Finance (No. 2) Act,* 1957.

(*b*) the amount of any other tax levied under any law for the time being in force on the company by the Government or by a local authority in excess of the amount, if any, which has been allowed in computing the total income ; and

(*c*) in the case of a banking company, the amount actually transferred to a reserve fund under section 17 of the Banking Companies Act, 1949 ;

the Income-tax Officer shall, unless he is satisfied that, having regard to the losses incurred by the company in earlier years or to the smallness of the profits made in the previous year, the payment of a dividend or a larger dividend than that declared would be unreasonable, make an order in writing that the company shall, apart from the sum determined as payable by it on the basis of the assessment under section 23, be liable to pay super-tax at the rate of fifty per cent in the case of a company whose business consists wholly or mainly in the dealing in or holding of investments, and at the rate of thirty-seven per cent in the case of any other company on the undistributed balance of the total income of the previous year, that is to say, on the total income as reduced by the amounts, if any, referred to in clause (*a*), clause (*b*) or clause (*c*) and the dividends actually distributed, if any.

(2) No order under sub-section (1) shall be made,—

(*i*) in the case of a company whose business consists wholly or mainly in the dealing in or holding of investments which has distributed not less than ninety per cent of its total income as reduced by the amounts, if any, referred to in clause (*a*), clause (*b*) or clause (*c*) of sub-section (1) ; or

(*ii*) in the case of any other company whose distribution falls short of the statutory percentage by not more than five per cent of its total income as reduced by the amounts, if any, aforesaid ; or

(*iii*) in any case where according to the return made by a company under section 22 it has distributed not less than the statutory percentage of its total income as reduced by the amounts, if any, aforesaid, but in the assessment made by the Income-tax Officer under section 23 a higher total income is arrived at and the difference in the total income does not arise out of the application of the proviso to section 13 or sub-section (4) of section 23 or the omission by the company to disclose its income fully and truly ;

unless the company, on receipt of a notice from the Income-tax Officer that he proposes to make such an order, fails to make within three months of the receipt of such notice a further distribution of its profits and gains so that the total distribution made is not less than the statutory percentage of the total income of the company as reduced by the amounts , if any, aforesaid.]

[12c] * * * * *

(8)[12d]* * * No order shall be made by the Income-tax Officer under sub-section (1) unless the previous approval of the Inspecting Assistant Commissioner of Income-tax has been obtained, and the Inspecting Assistant Commissioner shall not give his approval to any order proposed to be made by the Income-tax Officer until he has given the company concerned an opportunity of being heard.

[12c] Sub-sections (3), (4), (5), (6) and (7) were omitted by s. 7 of the Finance (No. 2) Act, 1957, with effect from the 1st April, 1957. (See also f.n. 12*b* above.)

[12d] "Except in cases where a decision is given by the Commissioner of Income-tax under sub-section (3) or the Board of Referees under sub-section (4)", omitted by s. 7 of the Finance (No. 2) Act, 1957, with effect from the 1st April, 1957.

Div. 1 S. 23A

(9) Nothing contained in this section shall apply to any company in which the public are substantially interested or to a subsidiary company of such company if the whole of the share capital of such subsidiary company has been held by the parent company or by its nominees throughout the previous year.

[12e][*Explanation* 1].—For the purposes of this section, a company shall be deemed to be a company in which the public are substantially interested—

(*a*) if it is a company owned by the Government or in which not less than forty per cent of the shares are held by the Government;

(*b*) if it is not a private company as defined in the Indian Companies Act, 1913 (VII of 1913), and

(*i*) its shares (not being shares entitled to a fixed rate of dividend, whether with or without a further right to participate in profits) carrying not less than fifty per cent of the voting power have been allotted unconditionally to, or acquired unconditionally by, and were throughout the previous year beneficially [12f][held by the Government or a corporation established by a Central, State or Provincial Act or the public] (not including a company to which the provisions of this [13][section] apply):

Provided that in the case of any such company as is referred to in [13a][clause (*ii*) of *Explanation* 2], this sub-clause shall apply as if for the words "not less than fifty per cent", the words "not less than forty per cent" had been substituted;

(*ii*) the said shares were at any time during the previous year the subject of dealings in any recognised stock exchange in India or were freely transferable by the holder to other members of the public; and

(*iii*) the affairs of the company or the shares carrying more than fifty per cent of the total voting power were at no time during the previous year controlled or held by less than six persons, [13b][and in computing the number of six persons aforesaid, the Government or any corporation established by a Central, State or Provincial Act or a company to which the provisions of this section do not apply shall not be taken into account, and persons who are relatives of one another and persons who are nominees of any other person together with that other person shall be treated as a single person, the expression "relative" in this context meaning husband, wife, lineal ascendant or descendant, brother or sister]:

[12e] The Explanation was re-numbered as "Explanation 1", *ibid.*, with effect from the 1st April, 1957.

[12f] Substituted for "held by the public", *ibid.*, with effect from the 1st April, 1957. (See also f.n. 12*b* above.)

[13] Substituted for "sub-section" by s. 15 of the Finance Act, 1956, with effect from the 1st April, 1956.

[13a] Substituted for "sub-section (4)" by s. 7 of the Finance (No. 2) Act, 1957, with effect from the 1st April, 1957.

[13b] Substituted for "(persons who are related to one another as husband, wife, lineal ascendant or descendant, brother or sister, as the case may be, being treated as a single person and persons who are nominees of another person together with that other person being likewise treated as a single person)" by s. 7 of the Finance (No. 2) Act, 1957, with effect from the 1st April, 1957. (See also f.n. 12*b* above.)

Provided that in the case of any such company as is referred to in [13c][clause (*ii*) of *Explanation* 2], this clause shall apply as if for the words "more than fifty per cent", the words "more than sixty per cent" had been substituted.]

[13d][*Explanation* 2.—For the purposes of this section, statutory percentage means,—

(*i*) in the case of a company whose business consists wholly or mainly in the dealing in or holding of investments 100%

(*ii*) in the case of an Indian company whose business consists wholly in the manufacture or processing of goods or in mining or in the generation or distribution of electricity or any other form of power 45%

(*iii*) in the case of an Indian company, a part only of whose business consists in any of the activities specified in clause (*ii*)—

(*a*) in relation to the said part of the company's business .. 45%

(*b*) in relation to the remaining part of the company's business—

(1) if it is a company which satisfies the conditions specified in sub-clause (*a*) of clause (*iv*) 90%

(2) in any other case 60%

the said percentages being applied separately with reference to the amounts of profits and gains attributable to the two parts of the company's business aforesaid as if the said amounts were respectively the total income of the company in relation to each of its parts, the amount of dividends and taxes also being similarly apportioned, for the purposes of sub-section (1)

(*iv*) in the case of any other company not referred to in the preceding clauses,—

(*a*) where the accumulated profits and reserves (including the amounts capitalised from the earlier reserves) representing accumulations of past profits which have not been the subject of an order under sub-section (1) exceed—either the aggregate of—

(1) the paid-up capital of the company exclusive of the capital, if any, created out of its profits and gains which have not been the subject of an order under sub-section (1);

(2) any loan capital which is the property of the shareholders;

or the actual cost of the fixed assets of the company, whichever of these is greater 90%

(*b*) where sub-clause (*a*) does not apply .. .. .. 60%.]

[13c] Substituted for "sub-section (4)", *ibid.*, with effect from the 1st April, 1957.

[13d] Inserted, *ibid.*, with effect from the 1st April, 1957. (See also f.n. 12*b* above.)

Div. 1 Ss. 23B-24 (R. 20B.)

[13e][23B. **Power to make provisional assessment in advance of regular assessment.**—(1) The Income-tax Officer may, at any time after the receipt of a return made under section 22, proceed to make in a summary manner, a provisional assessment of the tax payable by the assessee, on the basis of his return and the accounts and documents, if any, accompanying it, after giving due effect to (i) the allowance referred to in paragraph (*b*) of the proviso to clause (*vi*) of sub-section (2) of section 10, and (ii) any loss carried forward under sub-section (2) of section 24.

(2) A partner of a firm may be provisionally assessed under sub-section (1) in respect of his share in the firm's income, profits and gains, if its return has been received, although the return of the partner himself may not have been received.

(3) A firm may be provisionally assessed under sub-section (1) as if it were an unregistered firm, unless the firm fulfils such conditions as the Central Government may, by notification in the official Gazette, specify in that behalf.

(4) There shall be no right of appeal against a provisional assessment made under sub-section (1).

(5) For the avoidance of doubt, it is hereby declared that the provisions of section 45 (except the first proviso) and section 46 apply in relation to any tax payable in pursuance of a provisional assessment made under sub-section (1) as if it were a regular assessment made under section 23.

(6) Income-tax paid or deemed to have been paid under section 18 or section 18A in respect of any income provisionally assessed under sub-section (1), shall be deemed to have been paid towards the provisional assessment.

(7) After a regular assessment has been made under section 23, any amount paid or deemed to have been paid towards a provisional assessment made under sub-section (1), shall be deemed to have been paid towards the regular assessment; and where the amount paid or deemed to have been paid towards the provisional assessment, exceeds the amount payable under the regular assessment, the excess shall be refunded to the assessee.

(8) Nothing done or suffered by reason or in consequence of any provisional assessment made under this section shall prejudice the determination on the merits, of any issue which may arise in the course of the regular assessment under section 23.]

24. Set-off of loss in computing aggregate income.—(1) Where any assessee sustains a loss of profits or gains in any year under any of the heads mentioned in section 6, he shall be entitled to have the amount of the loss set off against his income, profits or gains under any other head in that year:

[13f]* * * *

[13g][Provided [13f]* that in computing the profits and gains chargeable under the head "Profits and gains of business, profession or vocation", any loss sustained in speculative transactions which are in the nature of a business shall not be taken into account except to the extent of the amount of profits and gains, if any, in any other business consisting of speculative transactions:]

[13e] Inserted by s. 17 of the Taxation Laws (Extension to Merged States and Amendment) Act, 1949 (67 of 1949).

[13f] The proviso and the word "further" were omitted by s. 2 and Sch. of the Taxation Laws (Extension to Jammu and Kashmir) Act, 1954 (41 of 1954).

[13g] Inserted by s. 3. of the Finance Act, 1953 (14 of 1953), with effect from 1st April, 1953.

Div. 1
S. 24

[14][Provided [15][further] that where the assessee is an unregistered firm which has not been assessed under the provisions of clause (*b*) of sub-section (5) of section 23, [15a]* * * any such loss shall be set off only against the income, profits and gains of the firm and not against the income, profits and gains of any of the partners of the firm; and where the assessee is a registered firm, any loss which cannot be set off against other income, profits and gains of the firm shall be apportioned between the partners of the firm and they alone shall be entitled to have the amount of the loss set off under this section.]

[16][*Explanation* 1.—Where the speculative transactions carried on are of such a nature as to constitute a business, the business shall be deemed to be distinct and separate from any other business.

Explanation 2.—A speculative transaction means a transaction in which a contract for purchase and sale of any commodity including stocks and shares is periodically or ultimately settled otherwise than by the actual delivery or transfer of the commodity or scrips:

Provided that for the purposes of this section,—

(*a*) a contract in respect of raw materials or merchandise entered into by a person in the course of his manufacturing or merchanting business to guard against loss through future price fluctuations in respect of his contracts for actual delivery of goods manufactured by him or merchandise sold by him; or

(*b*) a contract in respect of stocks and shares entered into by a dealer or investor therein to guard against loss in his holdings of stocks and shares through price fluctuations; or

(*c*) a contract entered into by a member of a forward market or a stock exchange in the course of any transaction in the nature of jobbing or arbitrage to guard against loss which may arise in the ordinary course of his business as such member;

shall not be deemed to be a speculative transaction.]

[17][(2) [18][Where any assessee sustains a loss of profits or gains in any year, being a previous year not earlier than the previous year for the assessment for the year ending on the 31st day of March, 1940, in any business, profession or vocation, and the loss cannot be wholly set off under sub-section (1), so much of the loss as is not so set off or the whole loss where the assessee had no other head of income shall be carried forward to the following year, and

(*i*) where the loss was sustained by him in a business consisting of speculative transactions, it shall be set off only against the profits and gains, if any, of any business in speculative transactions carried on by him in that year;

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[14] Added by s. 27 of the Indian I. T. (Amendment) Act, 1939 (7 of 1939).

[15] Inserted by s. 6 of the Indian I. T. (Amendment) Act, 1944 (11 of 1944).

[15a] "In the manner applicable to a registered firm" omitted by s. 16 of the Finance Act, 1956, with effect from the 1st April, 1956.

[16] Inserted by s. 3 of the Finance Act, 1953 (14 of 1953), with effect from the 1st April, 1953.

[17] Sub-sections (2) and (3) were substituted for the original sub-section (2) by s. 27 of the Indian I. T. (Amendment) Act, 1939 (7 of 1939).

[18] Substituted by s. 16 of the Finance Act, 1955, with effect from the 1st April, 1955.

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S. 24

(*ii*) where the loss was sustained by him in any other business, profession or vocation, it shall be set off against the profits and gains, if any, of any business, profession or vocation carried on by him in that year: provided that the business, profession or vocation in which the loss was originally sustained continued to be carried on by him in that year; and

(*iii*) if the loss in either case cannot be wholly so set off, the amount of loss not so set off shall be carried forward to the following year and so on [18a][but no loss shall be so carried forward for more than eight years]:]

[19][Provided that—

(*a*) [20][* * * *]

(*b*) where depreciation allowance is, under clause (*b*) of the proviso to clause (*vi*) of sub-section (2) of section 10, also to be carried forward, effect shall first be given to the provisions of this sub-section;]

[21][(*c*)] nothing herein contained shall entitle any assessee, being a registered firm, to have carried forward and set off any loss which has been apportioned between the partners, under the proviso to sub-section (1), or entitle any assessee, being a partner in an unregistered firm which has not been assessed under the provisions of clause (*b*) of sub-section (5) of section 23, [21a] * * * to have carried forward and set off against his own income any loss sustained by the firm;

[22][(*d*)] where an unregistered firm is assessed [22a] * * * under clause (*b*) of sub-section (5) of section 23, during any year, its losses shall also be carried forward and set off under this section as if it were a registered firm;

[23][(*e*) where a change has occurred in the constitution of a firm, nothing in this section shall be deemed to entitle the firm to have set off so much of the loss proportionate to the share of a retired or deceased partner computed in accordance with the provisions of clause (*b*) of sub-section (1) of section 16 as exceeds his share of profits, if any, of the previous year in the firm, or to entitle any partner to the benefit of any portion of the said loss which is not apportionable to him under the said clause (*b*), and where any

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[18a] Inserted by s. 8 of the Finance (No. 2) Act, 1957, with effect from the 1st April, 1957.

[19] The words "provided that" and the original clause (*a*) (which was relettered as clause "(*b*)" by s. 6 of the Indian I. T. (Amendment) Act, 1944 (11 of 1944)) were inserted by s. 13 of the Indian I. T. (Amendment) Act, 1941 (23 of 1941). Effect is not to be given to this amendment in the making of any assessment for any year before the year ending 31st March, 1943.

[20] Omitted by s. 2 and Sch. of the Taxation Laws (Extension to Jammu and Kashmir) Act, 1954 (41 of 1954).

[21] "(*b*)" was substituted for "provided that" by s. 13 of the Indian I. T. (Amendment) Act, 1941 (23 of 1941); and "(*c*)" was substituted for "(*b*)" by s. 6 of the Indian I. T. (Amendment) Act, 1944 (11 of 1944).

[21a] "In the manner applicable to a registered firm" omitted by s. 16 of the Finance Act, 1956, with effect from the 1st April, 1956.

[22] "(*c*)" was substituted for "provided further that" by s. 13 of the Indian I. T. (Amendment) Act, 1941 (23 of 1941); and "(*d*)" was substituted for "(*c*)" by s. 6 of the Indian I. T. (Amendment) Act, 1944 (11 of 1944).

[22a] "As a registered firm" omitted by s. 16 of the Finance Act, 1956, with effect from the 1st April, 1956.

[23] The original clause (*d*) was substituted for the third proviso by s. 13 of the Indian I. T. (Amendment) Act, 1941 (23 of 1941), and was relettered as clause "(*e*)" by s. 6 of the Indian I. T. (Amendment) Act, 1944 (11 of 1944).

person carrying on any business, profession or vocation has been succeeded in such capacity by another person, otherwise than by inheritance, nothing in this section shall be deemed to entitle any person other than the person incurring the loss to have it set off against his income, profits or gains ;]

[24][(f) a loss arising in the previous years for the assessment for the years ending on the 31st day of March of the years 1940, 1941, 1942, 1943 and 1944 shall be carried forward for one, two, three, four and five years respectively, and a loss arising in the previous years for the assessment for the years ending on the 31st day of March of the years 1945, 1946, 1947, 1948 and 1949 shall be carried forward for six years, and such loss shall be set off only against the profits and gains, if any, of the assessee from the same business, profession or vocation.]

[25][(2A) Notwithstanding anything contained in sub-section (1), where the loss sustained is a loss falling under the head "Capital gains," such loss shall not be set off except against any profits and gains falling under that head.

(2B) Where an assessee sustains a loss such as is referred to in sub-section (2A) and the loss cannot be wholly set off in accordance with the provisions of that sub-section, the portion not so set off shall be carried forward to the following year and set off against capital gains for that year, and if it cannot be so set off, the amount thereof not so set off shall be carried forward to the following year and so on [25a][so however that no such loss shall be carried forward for more than eight years] :

[25b][Provided that where the loss sustained by an assessee, not being a company, in any previous year does not exceed five thousand rupees, it shall not be carried forward.]]

(3) When, in the course of the assessment of the total income of any assessee, it is established that a loss of profits or gains has taken place which he is entitled to have set off under the provisions of this section, the Income-tax Officer shall notify to the assessee by order in writing the amount of the loss as computed by him for the purposes of this section.]

[1][**24A. Assessment in case of departure from [2][the taxable territories].**—(1) When it appears to the Income-tax Officer that any person may leave [2][the taxable territories] during the current financial year, or shortly after its expiry, and that he has no present intention of returning, the Income-tax Officer may proceed to assess him on his total income [3][of the period from the expiry of the last previous year of which the income has been assessed in his hands to the probable date of his departure from [2][the taxable territories], or where he has not been previously assessed, on his total income of the period up to the probable date of his departure from [2][the taxable territories]. The assessment shall be made on

[24] Inserted by s. 16 of the Finance Act, 1955, with effect from the 1st April, 1955.

[25] Inserted by s. 10 of the I. T. and E. P. T. (Amendment) Act, 1947 (22 of 1947).

[25a] The words "so however that no such loss shall be so carried forward for more than six years" were omitted by s. 7 of the Finance (No. 3) Act, 1956, with effect from the 1st April, 1957, and the present words were inserted by s. 8 of the Finance (No. 2) Act, 1957, with effect from the 1st April, 1957.

[25b] Substituted by s. 7 of the Finance (No. 3) Act, 1956, with effect from the 1st April, 1957.

[1] Inserted by s. 11 of the Indian I. T. (Second Amendment) Act, 1933 (18 of 1933).

[2] Substituted for "British India" by the Adaptation of Laws Order, 1950.

[3] Substituted for the original words by s. 28 of the Indian I. T. (Amendment) Act, 1939 (7 of 1939).

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the total income of each completed previous year included in such period at the rate at which such income would have been charged had it been fully assessed, and as respects the period from the expiry of the last of such completed previous years to the probable date of departure the Income-tax Officer shall estimate the total income of such person during such period and assess it at the rate in force for the financial year in which such assessment is made]:

Provided that nothing herein contained shall authorise an Income-tax Officer to assess any income, profits or gains which have escaped assessment [4][or have been under-assessed, or have been assessed at too low a rate, or have been the subject of excessive relief under this Act but] in respect of which he is debarred from issuing a notice under section 34.

(2) For the purpose of making an assessment under sub-section (1) the Income-tax Officer may serve a notice upon such person requiring him to furnish, within such time not being less than seven days as may be specified in the notice, a return in the same form and verified in the same manner as a return under sub-section (2) of section 22, setting forth (along with such other particulars as may be provided for in the notice) his total income for each of the completed previous years [5][comprised in the relevant period referred to in the first sentence of] sub-section (1) and his estimated total income for the period from the expiry of the last such completed previous year to the probable date of his departure; and the provisions of this Act shall, so far as may be, apply as if the notice were a notice issued under sub-section (2) of section 22].

[6][24B. **Tax of deceased person payable by representative.**—(1) Where a person dies, his executor, administrator or other legal representative shall be liable to pay out of the estate of the deceased person to the extent to which the estate is capable of meeting the charge the tax assessed as payable by such person, or any tax which would have been payable by him under this Act if he had not died.

[7][(2) Where a person dies before the publication of the notice referred to in sub-section (1) of section 22 or before he is served with a notice under sub-section (2) of section 22 or section 34, as the case may be, his executor, administrator or other legal representative shall, on the serving of the notice under sub-section (2) of section 22 or under section 34, as the case may be, comply therewith, and the Income-tax Officer may proceed to assess the total income of the deceased person as if such executor, administrator or other legal representative were the assessee].

(3) Where a person dies, without having furnished a return which he has been required to furnish under the provisions [8][* * *] of section 22, or having furnished a return which the Income-tax Officer has reason to believe to be incorrect or incomplete, the Income-tax Officer may make an assessment of the total income of such person and determine the tax payable by him on the basis of such assessment, and for this purpose may, [9][by the issue of the appropriate notice which would have had to be served upon the deceased person had he survived,] require from the executor, administrator or other legal representative of the deceased person any accounts, documents or other evidence which he might under the provisions of sections 22 and 23 have required from the deceased person.]

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[4] Substituted for "or have been assessed at too low a rate," *ibid.*

[5] Substituted for "comprised in the period first referred to in," *ibid.*

[6] Inserted by s. 11 of the Indian I. T. (Second Amendment) Act, 1933 (18 of 1933).

[7] Substituted by s. 29 of the Indian I. T. (Amendment) Act, 1939 (7 of 1939).

[8] "Of sub-section (2)" omitted, *ibid.*

[9] Inserted, *ibid.*

25. **Assessment in case of discontinued business.**—(1) Where any business, profession or vocation [10][to which sub-section (3) is not applicable], is discontinued in any year, an assessment may be made in that year on the basis of the income, profits or gains of the period between the end of the previous year and the date of such discontinuance in addition to the assessment, if any, made on the basis of the income, profits or gains of the previous year.

(2) Any person discontinuing any such business, profession or vocation shall give to the Income-tax Officer notice of such discontinuance within fifteen days thereof, and, where any person fails to give the notice required by this sub-section, the Income-tax Officer may direct that a sum shall be recovered from him by way of penalty not exceeding the amount of tax subsequently assessed on him in respect of any income, profits or gains of the business, profession or vocation up to the date of its discontinuance.

(3) Where any business, profession or vocation [11]* * on which tax was at any time charged under the provisions of the Indian Income-tax Act, 1918 (VII of 1918), is discontinued, [12][then, unless there has been a succession by virtue of which the provisions of sub-section (4) have been rendered applicable] no tax shall be payable in respect of the income, profits and gains of the period between the end of the previous year and the date of such discontinuance, and the assessee may further claim that the income, profits and gains of the previous year shall be deemed to have been the income, profits and gains of the said period. Where any such claim is made, an assessment shall be made on the basis of the income, profits and gains of the said period, and if an amount of tax has already been paid in respect of the income, profits and gains of the previous year exceeding the amount payable on the basis of such assessment, a refund shall be given of the difference.

[13][(4) Where the person who was at the commencement of the Indian Income-tax (Amendment) Act, 1939 (VII of 1939), carrying on any business, profession or vocation on which tax was at any time charged under the provisions of the Indian Income-tax Act, 1918, is succeeded in such capacity by another person, the change not being merely a change in the constitution of a partnership, no tax shall be payable by the first mentioned person in respect of the income, profits and gains of the period between the end of the previous year and the date of such succession, and such person may further claim that the income, profits and gains of the previous year shall be deemed to have been the income, profits and gains of the said period. Where any such claim is made, an assessment shall be made on the basis of the income, profits and gains of the said period, and, if an amount of tax has already been paid in respect of the income, profits and gains of the previous year exceeding the amount payable on the basis of such assessment, a refund shall be given of the difference:

[14][Provided that sub-sections (3) and (4) shall not apply—

(*a*) to super-tax except where the income, profits and gains of the business, profession or vocation were assessed to super-tax for the first time either

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[10] Substituted for "on which income-tax was not at any time charged under the provisions of the Indian Income-tax Act, 1918" by s. 7 of the Indian I. T. (Amendment) Act, 1944 (11 of 1944).

[11] "Which was in existence at the commencement of this Act and" omitted by s. 6 of the Indian I. T. (Amendment) Act, 1924 (11 of 1924).

[12] Inserted by s. 30 of the Indian I. T. (Amendment) Act, 1939 (7 of 1939).

[13] Sub-sections (4) and (5) were inserted, *ibid.*

[14] Added by s. 14 of the Indian I. T. (Amendment) Act, 1941 (23 of 1941).

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for the year beginning on the 1st day of April, 1920, or for the year beginning on the 1st day of April, 1921 ;

(*b*) to a business, profession or vocation on which income-tax was at any time charged in the hands of a company under the Indian Income-tax Act, 1886 (II of 1886), or on which income-tax would have been charged in the hands of a company for the assessment year ending on the 31st day of March, 1918, if the company having been in existence in that year had also been in existence in the year ending on the 31st day of March, 1917.]

(5) No claim to the relief afforded under sub-section (3) or sub-section (4) shall be entertained unless it is made before the expiry of one year from the date on which the business, profession or vocation was discontinued or the succession took place, as the case may be.]

[15][(6)] Where an assessment is to be made under [16][sub-section (1), sub-section (3) or sub-section (4)], the Income-tax Officer may serve on the person whose income, profits and gains are to be assessed or, in the case of a firm, on any person who was a member of such firm at the time of its discontinuance, or, in the case of a company, on the principal officer thereof, a notice containing all or any of the requirements which may be included in a notice under sub-section (2) of section 22, and the provisions of this Act shall, so far as may be, apply accordingly as if the notice were a notice issued under that sub-section.

[17][25A. **Assessment after partition of a Hindu undivided family.**— (1) Where, at the time of making an assessment under section 23, it is claimed by or on behalf of any member of a Hindu family hitherto [18][assessed as] undivided that a partition has taken place among the members of such family, the Income-tax Officer shall make such inquiry thereinto as he may think fit, and, if he is satisfied [19]* * * * that the joint family property has been partitioned among the various members or groups of members in definite portions [20]* * * * he shall record an order to that effect :

Provided that no such order shall be recorded until notices of the inquiry have been served on all the members of the family.

(2) Where such an order has been passed, [21][or where any person has succeeded to a business, profession or vocation formerly carried on by a Hindu undivided family whose joint family property has been partitioned on or after the last day on which it carried on such business, profession or vocation,] the Income-tax Officer shall make an assessment of the total income received by or on behalf of the joint family as such, as if no [22]* * partition had taken place, and each member or group of members shall, in addition to any income-tax for which he or it may be separately liable and notwithstanding anything contained in sub-section (1) of section 14, be liable for a share of the tax on the income so assessed according

[15] The original sub-section (4) was re-numbered (6) by s. 30 of the Indian I. T. (Amendment) Act, 1939 (7 of 1939).

[16] Substituted for "sub-section (1) or sub-section (3)," *ibid.*

[17] Inserted by s. 4 of the Indian I. T. (Amendment) Act, 1928 (3 of 1928).

[18] Inserted by s. 3 of the Indian I. T. (Second Amendment) Act, 1930 (22 of 1930).

[19] "That a separation of members of the family has taken place and" omitted by s. 31 of the Indian I. T. (Amendment) Act, 1939 (7 of 1939).

[20] "Before the end of the previous year" omitted by s. 3 of the Indian I. T. (Second Amendment) Act, 1930 (22 of 1930).

[21] Inserted by s. 31 of the Indian I. T. (Amendment) Act, 1939 (7 of 1939).

[22] "Separation or" omitted, *ibid.*

to the portion of the joint family property allotted to him or it; and the Income-tax Officer shall make assessments accordingly on the various members and groups of members in accordance with the provisions of section 23 :

Provided that all the [23][members and groups of members whose joint family property has been partitioned] shall be liable jointly and severally for the tax assessed on the total income received by or on behalf of the joint family as such].

[24][(3) Where such an order has not been passed in respect of a Hindu family hitherto assessed as undivided, such family shall be deemed, for the purposes of this Act, to continue to be a Hindu undivided family.]

[25][**26. Change in constitution of a firm.**—(1) Where, at the time of making an assessment under section 23, it is found that a change has occurred in the constitution of a firm or that a firm has been newly constituted, [1][the assessment shall be made on the firm as constituted] at the time of making the assessment :

[2][Provided that the income, profits and gains of the previous year shall, for the purpose of inclusion in the total incomes of the partners, be apportioned between the partners who in such previous year were entitled to receive the same :

Provided further that when the tax assessed upon a partner cannot be recovered from him it shall be recovered from the firm as constituted at the time of making the assessment.]

[3][(2) Where a person carrying on any business, profession or vocation has been succeeded in such capacity by another person, such person and such other person shall, subject to the provisions of sub-section (4) of section 25, each be assessed in respect of his actual share, if any, of the income, profits and gains of the previous year :

Provided that, when the person succeeded in the business, profession or vocation cannot be found, the assessment of the profits of the year in which the succession took place up to the date of succession, and for the year preceding that year shall be made on the person succeeding him in like manner and to the same amount as it would have been made on the person succeeded or when the tax in respect of the assessment made for either of such years assessed on the person succeeded cannot be recovered from him, it shall be payable by and recoverable from the person succeeding, and such person shall be entitled to recover from the person succeeded the amount of any tax so paid.]]

[4][**26A. Procedure in registration of firms.**—(1) Application may be made to the Income-tax Officer on behalf of any firm, constituted under an instrument of partnership specifying the individual shares of the partners, for registration for the purposes of this Act and of any other enactment for the time being in force relating to income-tax or super-tax.

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[23] Substituted for "separated members and groups of members," *ibid.*

[24] Added by s. 3 of the Indian I. T. (Second Amendment) Act, 1930 (22 of 1930).

[25] Substituted by s. 5 of the Indian I. T. (Amendment) Act, 1928 (3 of 1928).

[1] Substituted by s. 32 of the Indian I. T. (Amendment) Act, 1939 (7 of 1939).

[2] Added, *ibid.*

[3] Substituted, *ibid.*

[4] Inserted by s. 5 of the Indian I. T. (Amendment) Act, 1930 (21 of 1930).

Div. 1 Ss. 26A-28 (R.2-6B.)

(2) The application shall be made by such person or persons, and at such times and shall contain such particulars and shall be in such form, and be verified in such manner, as may be prescribed ; and it shall be dealt with by the Income-tax Officer in such manner as may be prescribed.]

27. Cancellation of assessment when cause is shown.—Where an assessee [5]* * * * within one month from the service of a notice of demand issued as hereinafter provided, satisfies the Income-tax Officer that he was prevented by sufficient cause from making the return required by section 22, or that he did not receive the notice issued under sub-section (4) of section 22, or sub-section (2) of section 23, or that he had not a reasonable opportunity to comply, or was prevented by sufficient cause from complying, with the terms of the last-mentioned notices, the Income-tax Officer shall cancel the assessment and proceed to make a fresh assessment in accordance with the provisions of section 23.

[6][**28. Penalty for concealment of income or improper distribution of profits.**—[7][(1) If the Income-tax Officer, the Appellate Assistant Commissioner [8][or the Appellate Tribunal], in the course of any proceedings under this Act, is satisfied that any person—

(*a*) has without reasonable cause failed to furnish the return of his total income which he was required to furnish by notice given under sub-section (1) or sub-section (2) of section 22 or section 34 or has without reasonable cause failed to furnish it within the time allowed and in the manner required by such notice, or

(*b*) has without reasonable cause failed to comply with a notice under sub-section (4) of section 22 or sub-section (2) of section 23, or

(*c*) has concealed the particulars of his income or deliberately furnished inaccurate particulars of such income,

[9][he or it may direct] that such person shall pay by way of penalty, in the case referred to in clause (*a*), in addition to the amount of the income-tax and super-tax, if any, payable by him, a sum not exceeding one and a half times that amount, and in the cases referred to in clauses (*b*) and (*c*), in addition to any tax payable by him, a sum not exceeding one and a half times the amount of the income-tax and super-tax, if any, which would have been avoided if the income as returned by such person had been accepted as the correct income :

Provided that—

(*a*) no penalty for failure to furnish the return of his total income shall be imposed on an assessee whose total income is less than three thousand five hundred rupees unless he has been served with a notice under sub-section (2) of section 22 ;

(*b*) where a person has failed to comply with a notice under sub-section (2) of section 22 or section 34 and proves that he has no income liable to tax, the penalty imposable under this sub-section shall be a penalty not exceeding twenty-five rupees ;

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[5] "Or in the case of a company, the principal officer thereof" omitted by s. 33 of the Indian I. T. (Amendment) Act, 1939 (7 of 1939).

[6] Substituted by s. 6 of the Indian I. T. (Amendment) Act, 1930 (21 of 1930).

[7] Substituted by s. 34 of the Indian I. T. (Amendment) Act, 1939 (7 of 1939).

[8] Substituted for "or the Commissioner" by s. 86, *ibid.*

[9] Substituted for "he may direct," *ibid.*

(*c*) no penalty shall be imposed under this sub-section upon any person assessable under section 42 as the agent of a person not resident in [10][the taxable territories] for failure to furnish the return required under section 22 unless a notice under sub-section (2) of that section or under section 34 has been served on him];

[11][(*d*) [11a][when the person liable to penalty is a registered firm or an unregistered firm which has been assessed under clause (*b*) of sub-section (5) of section 23, then, notwithstanding anything contained in the other provisions of this Act, the amount of income-tax and super-tax payable by the firm itself shall be taken to be] an amount equal to the tax which would have been payable by an unregistered firm on an income equal to the firm's total income, and, in the cases referred to in clauses (*b*) and (*c*), the amount of the income-tax and super-tax which would have been avoided if the income as returned had been accepted as the correct income, shall be taken to be the difference between the amount of the tax which would have been payable by an unregistered firm on an income equal to the firm's total income and the amount of the tax payable by an unregistered firm on an income equal to the income of the firm as actually returned by the firm].

(2) If the Income-tax Officer, the [12][Appellate Assistant Commissioner] [13][or the Appellate Tribunal], in the course of any proceedings under this Act, is satisfied that the profits of a registered firm have been distributed otherwise than in accordance with the shares of the partners as shown in the instrument of partnership registered under this Act governing such distribution, and that any partner has thereby returned his income below its real amount, [14][he or it may direct] that such partner shall [15][in addition to the income-tax and super-tax, if any, payable by him] pay by way of penalty a sum [16][not exceeding one and a half times the amount of income-tax and super-tax] which has been avoided, or would have been avoided if the income returned by such partner had been accepted as his correct income ; and no refund or other adjustment shall be claimable by any other partner by reason of such direction.

(3) No order shall be made under sub-section (1) or sub-section (2) unless the assessee or partner, as the case may be, has been heard, or has been given a reasonable opportunity of being heard.

(4) No prosecution for an offence against this Act shall be instituted in respect of the same facts on which a penalty has been imposed under this section.

(5) An [17][Appellate Assistant Commissioner] [18][or the Appellate Tribunal on making] an order under sub-section (1) or sub-section (2), shall forthwith send a copy of the same to the Income-tax Officer].

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[10] Substituted for "British India" by the Adaptation of Laws Order, 1950.

[11] Added by s. 8 of the Indian I. T. (Amendment) Act, 1940 (40 of 1940).

[11a] Substituted for "when the person liable to penalty is a registered firm, or an unregistered firm treated under section 23 (5)(*b*) as a registered firm, so that the amount of the income-tax and super-tax payable by the firm itself has not been determined, that amount shall be taken to be" by s. 17 of the Finance Act, 1956, with effect from the 1st April, 1956.

[12] Substituted for "Assistant Commissioner" by s. 34 of the Indian I. T. (Amendment) Act, 1939 (7 of 1939).

[13] Substituted for "or the Commissioner" by s. 86, *ibid.*

[14] Substituted for "he may direct," *ibid.*

[15] Substituted for "in addition to the income-tax payable by him" by s. 34, *ibid.*

[16] Substituted for "not exceeding the amount of income-tax," *ibid.*

[17] Substituted for "Assistant Commissioner," *ibid.*

[18] Substituted for "or a Commissioner, who has made" by s. 86, *ibid.*

Div. 1 Ss. 28-30 (R. 20, 20A, 20B, 49.)

[19][(6) The Income-tax Officer shall not impose any penalty under this section without the previous approval of the Inspecting Assistant Commissioner].

[20][29. **Notice of demand.**—When any [21][tax, penalty or interest] is due in consequence of any order passed under or in pursuance of this Act, the Income-tax Officer shall serve upon the assessee or other person liable to pay such [21][tax, penalty or interest] a notice of demand in the prescribed form specifying the sum so payable].

30. **Appeal against assessment under this Act.**—(1) Any assessee objecting to the amount [22][of income assessed under section 23 or section 27, or the amount of loss computed under section 24 or the amount of tax determined under section 23 or section 27], or denying his liability to be assessed under this Act, [23][or objecting to the cancellation by an Income-tax Officer of the registration of a firm under sub-section (4) of section 23 or to a refusal to register a firm under sub-section (4) of section 23 or section 26A] or to make a fresh assessment under section 27, or [24][objecting] to any order [25][* *] under sub-section (2) of section 25 [1][or section 25A] [24][or sub-section (2) of section 26] or section 28 made by an Income-tax Officer, [24][or objecting to any penalty imposed by an Income-tax Officer under sub-section (6) of section 44E or sub-section (5) of section 44F or sub-section (1) of section 46, or objecting to a refusal of an Income-tax Officer to allow a claim to a refund under section 48, 49 or 49F, or to the amount of the refund allowed by the Income-tax Officer under any of those sections, and any assessee, being a company, objecting to an order made by an Income-tax Officer under sub-section (1) of section 23A], may appeal to the [2][Appellate Assistant Commissioner] against the assessment or against such refusal or order :

[3][Provided that no appeal shall lie against an order under sub-section (1) of section 46 unless the tax has been paid :

Provided further that where the partners of a firm are individually assessable on their shares in the total income of the firm, any such partner may appeal to the Appellate Assistant Commissioner against any order of an Income-tax Officer determining the amount of the total income or the loss of the firm or the apportionment thereof between the several partners, but in respect of matters which are determined by such order may not appeal against the assessment of his own total income :

Provided further that a shareholder in a company in respect of which an order under section 23A has been passed by an Income-tax Officer, may not in respect of matters determined by such order appeal against the assessment of his own total income].

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[19] Added by s. 34, *ibid.*

[20] Substituted by s. 35, *ibid.*

[21] Substituted for "tax or penalty" by s. 8 of the Indian I. T. (Amendment) Act, 1944 (11 of 1944).

[22] Substituted for "or rate at which he is assessed under section 23 or section 27" by s. 36 of the Indian I. T. (Amendment) Act, 1939 (7 of 1939).

[23] Substituted for "or objecting to a refusal of an Income-tax Officer to register a firm under section 26A" by s. 9 of the Indian I. T. (Amendment) Act, 1944 (11 of 1944).

[24] Inserted by s. 36 of the Indian I. T. (Amendment) Act, 1939 (7 of 1939).

[25] "Against him" omitted, *ibid.*

[1] Inserted by s. 4 of the Indian I. T. (Second Amendment) Act, 1930 (22 of 1930).

[2] Substituted for "Assistant Commissioner" by s. 36 of the Indian I. T. (Amendment) Act, 1939 (7 of 1939).

[3] Substituted, *ibid.*

[4][(1A) Any person having, in accordance with the provisions of sub-section [5][*] (3B) [5][* *] of section 18, read with sub-section (6) of that section, deducted and paid tax in respect of any sum chargeable under this Act other than interest who denies his liability to make such deduction may appeal to the Appellate Assistant Commissioner to be declared not liable to make such deduction].

(2) The appeal shall ordinarily be presented within thirty days [6][of the payment of the tax deducted under sub-section (3A), (3B) or (3C) of section 18 or] of receipt of the notice of demand relating to the assessment or penalty objected to [7][or of the order in writing notifying the amount of total income on which the determination under sub-section (5) of section 23 was based and the apportionment thereof between the several partners or of the loss computed under section 24] [8][or of the intimation of the refusal [9][to pass an order under sub-section (1) of section 25A, or] to register a firm under section 26A] or of the date of the refusal to make a fresh assessment under section 27, [10][or of the intimation of an order under sub-section (1) of section 23A or under section 48, 49 or 49F], as the case may be; but the [11][Appellate Assistant Commissioner] may admit an appeal after the expiration of the period if he is satisfied that the appellant had sufficient cause for not presenting it within that period.

(3) The appeal shall be in the prescribed form and shall be verified in the prescribed manner. (R. 21, 21A.)

31. Hearing of appeal.—(1) The [11][Appellate Assistant Commissioner] shall fix a day and place for the hearing of the appeal, and may from time to time adjourn the hearing.

(2) The [11][Appellate Assistant Commissioner] may, before disposing of any appeal, make such further inquiry as he thinks fit, or cause further inquiry to be made by the Income-tax Officer.

[12][(2A) The Appellate Assistant Commissioner may, at the hearing of an appeal, allow an appellant to go into any ground of appeal not specified in the grounds of appeal, if the Appellate Assistant Commissioner is satisfied that the omission of that ground from the form of appeal was not wilful or unreasonable].

(3) In disposing of an appeal the [13][Appellate Assistant Commissioner] may, in the case of an order of assessment,—

(*a*) confirm, reduce, enhance or annul the assessment, [14][* * *] or

(*b*) set aside the assessment and direct the Income-tax Officer to make a fresh assessment after making such further inquiry as the Income-tax Officer thinks fit or the [13][Appellate Assistant Commissioner] may direct,

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[4] Inserted by s. 9 of the Indian I. T. (Amendment) Act, 1944 (11 of 1944).

[5] "(3A)" and "or (3C)" omitted by s. 16 of the Indian I. T. (Amendment) Act, 1953 (25 of 1953), with effect from the 1st April, 1952.

[6] Inserted by s. 9 of the Indian I. T. (Amendment) Act, 1944 (11 of 1944).

[7] Inserted by s. 15 of the Indian I. T. (Amendment) Act, 1941 (23 of 1941).

[8] Inserted by s. 12 of the Indian I. T. (Second Amendment) Act, 1933 (18 of 1933).

[9] Inserted by s. 2 and Sch. I of the Repealing and Amending Act, 1937 (20 of 1937).

[10] Inserted by s. 36 of the Indian I. T. (Amendment) Act, 1939 (7 of 1939).

[11] Substituted for "Assistant Commissioner" by s. 37, *ibid.*

[12] Inserted, *ibid.*

[13] Substituted for "Assistant Commissioner," *ibid.*

[14] "And, in the case of an assessment on a firm or association of persons, authorise the Income-tax Officer to amend accordingly any assessment made on any partner of the firm or any member of the association" omitted by s. 16 of the Indian I. T. (Amendment) Act, 1941 (23 of 1941).

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and the Income-tax Officer shall thereupon proceed to make such fresh assessment [15][and determine where necessary the amount of tax payable on the basis of such fresh assessment],

[16][or, in the case of an order cancelling the registration of a firm under sub-section (4) of section 23 or refusing to register a firm under sub-section (4) of section 23 or section 26A] or to make a fresh assessment under section 27,

(*c*) confirm such order, or cancel it and direct the Income-tax Officer [17][to register the firm or to make a fresh assessment, as the case may be],

or, in the case of an order under sub-section (2) of [18][section 25 or sub-section (1) of section 23A, or sub-section (2) of section 26 or section 48, 49 or 49F],

[19][(*d*)] confirm, cancel or vary such order,

[20][or, in the case of an order under sub-section (1) of section 25A,

(*e*) confirm such order or cancel it and either direct the Income-tax Officer to make further inquiry and pass a fresh order or to make an assessment in the manner laid down in sub-section (2) of section 25A,

or, in the case of an order under section 28 or sub-section (6) of section 44E or sub-section (5) of section 44F or sub-section (1) of section 46,

(*f*) confirm or cancel such order or vary it so as either to enhance or reduce the penalty,

or, in the case of an appeal against a computation of loss under section 24,

(*g*) confirm or vary such computation],

[21][or, in the case of an appeal under sub-section (1A) of section 30,

(*h*) decide that the person is or is not liable to make the deduction and in the latter case direct the refund of the sum paid under sub-section (6) of section 18]:

Provided that the [22][Appellate Assistant Commissioner] shall not enhance an assessment [23][or a penalty] unless the appellant has had a reasonable opportunity of showing cause against such enhancement:

[23][Provided further that at the hearing of any appeal against an order of an Income-tax Officer, the Income-tax Officer shall have the right to be heard either in person or by a representative.]

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[15] Added by s. 37 of the Indian I. T. (Amendment) Act, 1939 (7 of 1939).

[16] Substituted for the words "or in the case of an order refusing to register a firm under section 26A" (which had been inserted by s. 5 of the Indian I. T. (Second Amendment) Act, 1930 (22 of 1930)), by s. 10 of the Indian I. T. (Amendment) Act, 1944 (11 of 1944).

[17] Substituted for "to make a fresh assessment" by s. 13 of the Indian I. T. (Second Amendment) Act, 1933 (18 of 1933).

[18] Substituted for "section 25 or section 28" by s. 37 of the Indian I. T. (Amendment) Act, 1939 (7 of 1939).

[19] Clause (*c*) was re-lettered clause (*d*) by s. 5 of the Indian I. T. (Second Amendment) Act, 1930 (22 of 1930).

[20] Inserted by s. 37 of the Indian I. T. (Amendment) Act, 1939 (7 of 1939).

[21] Inserted by s. 10 of the Indian I. T. (Amendment) Act, 1944 (11 of 1944).

[22] Substituted for "Assistant Commissioner" by s. 37 of the Indian I. T. (Amendment) Act, 1939 (7 of 1939).

[23] Inserted, *ibid.*

[24][(4) Where as the result of an appeal any change is made in the assessment of a firm or association of persons or a new assessment of a firm or association of persons is ordered to be made, the Appellate Assistant Commissioner may authorise the Income-tax Officer to amend accordingly any assessment made on any partner of the firm or any member of the association. **Div. 1 Ss. 31-33**

(5) The Appellate Assistant Commissioner shall, on the conclusion of the appeal, communicate the orders passed by him to the assessee and to the Commissioner.]

32. Appeals against orders of Appellate Assistant Commissioner.—*Omitted by s. 87 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939).*

[25][**33. Appeals against orders of Appellate Assistant Commissioner.**—(1) Any assessee objecting to an order passed by an Appellate Assistant Commissioner under section 28 or section 31 may appeal to the Appellate Tribunal within sixty days of the date [1][on which such order is communicated to him].

(2) The Commissioner may, if he objects to any order passed by an Appellate Assistant Commissioner under section 31, direct the Income-tax Officer to appeal to the Appellate Tribunal against such order, and such appeal may be made [2][within sixty days of the date on which the order is communicated to the Commissioner by the Appellate Assistant Commissioner].

[3][(2A) The Tribunal may admit an appeal after the expiry of the sixty days referred to in sub-sections (1) and (2) if it is satisfied that there was sufficient cause for not presenting it within that period.]

(3) An appeal to the Appellate Tribunal shall be in the prescribed form and shall be verified in the prescribed manner, and shall, except in the case of an appeal referred to in sub-section (2), be accompanied by a fee of one hundred rupees. **(R. 22.)**

(4) The Appellate Tribunal may, after giving both parties to the appeal an opportunity of being heard, pass such orders thereon as it thinks fit, and shall communicate any such orders to the assessee and to the Commissioner.

[4][(5) Where as the result of an appeal any change is made in the assessment of a firm or association of persons or a new assessment of a firm or association of persons is ordered to be made, the Appellate Tribunal may authorise the Income-tax Officer to amend accordingly any assessment made on any partner of the firm or any member of the association.]

[5][(6)] Save as provided in section 66 orders passed by the Appellate Tribunal on appeal shall be final.]

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[24] Added by s. 16 of the Indian I. T. (Amendment) Act, 1941 (23 of 1941).

[25] Substituted by s. 88 of the Indian I. T. (Amendment) Act, 1939 (7 of 1939).

[1] Substituted for "on which he is served with notice of such order" by s. 17 of the Indian I. T. (Amendment) Act, 1941 (23 of 1941).

[2] Substituted for "at any time before the expiry of sixty days from the date of the order," *ibid.*

[3] Inserted, *ibid.*

[4] Inserted by s. 11 of the Indian I. T. (Amendment) Act, 1944 (11 of 1944).

[5] This sub-section was re-numbered (6), *ibid.*

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[6][33A. **Power of revision by Commissioner.**—(1) The Commissioner may of his own motion call for the record of any proceeding under this Act in which an order has been passed by any authority subordinate to him and may make such inquiry or cause such inquiry to be made and, subject to the provisions of this Act, may pass such order thereon, not being an order prejudicial to the assessee, as he thinks fit :

Provided that the Commissioner shall not revise any order under this sub-section if—

(*a*) where an appeal against the order lies to the Appellate Assistant Commissioner or to the Appellate Tribunal, the time within which such appeal may be made has not expired, or

(*b*) the order is pending on an appeal before the Appellate Assistant Commissioner or has been made the subject of an appeal to the Appellate Tribunal, or

(*c*) the order has been made more than one year previously.

(2) The Commissioner may, on application by an assessee for revision of an order under this Act passed by any authority subordinate to the Commissioner, made within one year from the date of the order [7][(or within such further period as the Commissioner may think fit to allow on being satisfied that the assessee was prevented by sufficient cause from making the application within that period)], call for the record of the proceeding in which such order was passed, and on receipt of the record may make such inquiry or cause such inquiry to be made, and, subject to the provisions of this Act, may pass such order thereon, not being an order prejudicial to the assessee, as he thinks fit :

Provided that the Commissioner shall not revise any order under this sub-section if—

(*a*) where an appeal against the order lies to the Appellate Assistant Commissioner or to the Appellate Tribunal but has not been made, the time within which such appeal may be made has not expired, or, in the case of an appeal to the Appellate Tribunal, the assessee has not waived his right of appeal, or

(*b*) where an appeal against the order has been made to the Appellate Assistant Commissioner, the appeal is pending before the Appellate Assistant Commissioner, or

(*c*) the order has been made the subject of an appeal to the Appellate Tribunal :

Provided further that an order by the Commissioner declining to interfere shall be deemed not to be an order prejudicial to the assessee.

[8][*Explanation.*—For the purposes of sub-sections (1) and (2), the Appellate Assistant Commissioner shall be deemed to be an authority subordinate to the Commissioner.]

(3) Every application by an assessee under sub-section (2) shall be accompanied by a fee of twenty-five rupees.]

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[6] Inserted by s. 18 of the Indian I. T. (Amendment) Act, 1941 (23 of 1941).

[7] Inserted by s. 17 of the Indian I. T. (Amendment) Act, 1953 (25 of 1953), with effect from the 1st April, 1952.

[8] Inserted, *ibid.*, with effect from the 1st April, 1952.

[9][33B. **Power of Commissioner to revise Income-tax Officer's orders.**—(1) The Commissioner may call for and examine the record of any proceeding under this Act and if he considers that any order passed therein by the Income-tax Officer is erroneous in so far as it is prejudicial to the interests of the revenue, he may, after giving the assessee an opportunity of being heard and after making or causing to be made such enquiry as he deems necessary, pass such order thereon as the circumstances of the case justify, including an order enhancing or modifying the assessment, or cancelling the assessment and directing a fresh assessment. Div. 1 Ss. 33B-34

(2) No order shall be made under sub-section (1)—

(*a*) to revise an order of re-assessment made under the provisions of section 34 ; or

(*b*) after the expiry of two years from the date of the order sought to be revised.

(3) Any assessee objecting to an order passed by the Commissioner under sub-section (1) may appeal to the Appellate Tribunal within 60 days of the date on which the order is communicated to him.

(4) An appeal to the Appellate Tribunal under sub-section (3) shall be in the prescribed form and shall be verified in the prescribed manner and shall be accompanied by a treasury receipt in support of having paid the fee of Rs. 100, and such appeal shall be dealt with in the same manner as if it were an appeal under sub-section (1) of section 33.] (R. 22.)

[10][34. **Income escaping assessment.**—[11](1) If—

(*a*) the Income-tax Officer has reason to believe that by reason of the omission or failure on the part of an assessee to make a return of his income under section 22 for any year or to disclose fully and truly all material facts necessary for his assessment for that year, income, profits or gains chargeable to income-tax have escaped assessment for that year, or have been under-assessed, or assessed at too low a rate, or have been made the subject of excessive relief under the Act, or excessive loss or depreciation allowance has been computed, or

(*b*) notwithstanding that there has been no omission or failure as mentioned in clause (*a*) on the part of the assessee, the Income-tax Officer has in consequence of information in his possession reason to believe that

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[9] Inserted by s. 7 of the I. T. and B. P. T. (Amendment) Act, 1948 (48 of 1948), with effect from the 30th March, 1948.

[10] Substituted by s. 8 of the I. T. and B. P. T. (Amendment) Act, 1948 (48 of 1948), with effect from the 30th March, 1948.

[11] *Validity of certain notices and assessments.*—For the removal of doubts it is hereby declared that the provisions of sub-sections (1), (2) and (3) of section 34 of the principal Act [the Indian Income-tax Act, 1922] shall apply and shall be deemed always to have applied to any assessment or re-assessment for any year ending before the 1st day of April, 1948, in any case where proceedings in respect of such assessment or re-assessment were commenced under the said sub-sections after the 8th day of September, 1948, and any notice issued in accordance with sub-section (1) or any assessment completed in pursuance of such notice within the time specified in sub-section (3), whether before or after the commencement of the Indian Income-tax (Amendment) Act, 1953, shall, notwithstanding any judgment or order of any court, Appellate Tribunal or Income-tax authority to the contrary, be deemed to have been validly issued or completed, as the case may be, and no such notice, assessment or re-assessment shall be called in question on the ground merely that the provisions of section 34 did not apply or purport to apply in respect of an assessment or re-assessment for any year prior to the 1st day of April, 1948.

[*S.* 31 *of the Indian I. T.* (*Amendment*) *Act*, 1953 (25 *of* 1953).]

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income, profits or gains chargeable to income-tax have escaped assessment for any year, or have been under-assessed, or assessed at too low a rate, or have been made the subject of excessive relief under this Act, or that excessive loss or depreciation allowance has been computed,

he may in cases falling under clause (*a*) at any time [11a] * * and in cases falling under clause (*b*) at any time within four years of the end of that year, serve on the assessee, or, if the assessee is a company, on the principal officer thereof, a notice containing all or any of the requirements which may be included in a notice under sub-section (2) of section 22 and may proceed to assess or re-assess such income, profits or gains or recompute the loss or depreciation allowance; and the provisions of this Act shall, so far as may be, apply accordingly as if the notice were a notice issued under that sub-section:

[11b][Provided that the Income-tax Officer shall not issue a notice under clause (*a*) of sub-section (1)—

(*i*) for any year prior to the year ending on the 31st day of March, 1941;

(*ii*) for any year, if eight years have elapsed after the expiry of that year, unless the income, profits or gains chargeable to income-tax which have escaped assessment or have been under-assessed or assessed at too low a rate or have been made the subject of excessive relief under this Act, or the loss or depreciation allowance which has been computed in excess, amount to, or are likely to amount to, one lakh of rupees or more in the aggregate, either for that year, or for that year and any other year or years after which or after each of which eight years have elapsed, not being a year or years ending before the 31st day of March, 1941;

(*iii*) for any year, unless he has recorded his reasons for doing so, and, in any case falling under clause (*ii*), unless the Central Board of Revenue, and, in any other case, the Commissioner, is satisfied on such reasons recorded that it is a fit case for the issue of such notice:

Provided further that the Income-tax Officer shall not issue a notice under this sub-section for any year, after the expiry of two years from that year, if the person on whom the assessment or re-assessment is to be made in pursuance of the notice is a person deemed to be the agent of a non-resident person under section 43:

Provided further that the tax shall be chargeable at the rate at which it would have been charged had the income, profits or gains not escaped assessment or full assessment, as the case may be.]

Explanation.—Production before the Income-tax Officer of account-books or other evidence from which material facts could with due diligence have been discovered by the Income-tax Officer will not necessarily amount to disclosure within the meaning of this section.

[12][(1A) If, in the case of any assessee, the Income-tax Officer has reason to believe—

(*i*) that income, profits or gains chargeable to income-tax have escaped assessment for any year in respect of which the relevant previous year falls wholly or partly within the period beginning on the 1st day of September, 1939, and ending on the 31st day of March, 1946; and

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[11a] "Within eight years" omitted by s. 18 of the Finance Act, 1956, with effect from the 1st April, 1956.

[11b] Substituted for the original Proviso, *ibid.*, with effect from the 1st April, 1956.

[12] Inserted by s. 2 of the Indian I. T. (Amendment) Act, 1954 (33 of 1954), with effect from the 17th July, 1954.

(*ii*) that the income, profits or gains which have so escaped assessment for any such year or years amount, or are likely to amount, to one lakh of rupees or more ; **Div. 1 S. 34**

he may, notwithstanding that the period of eight years or, as the case may be, four years specified in sub-section (1) has expired in respect thereof, serve on the assessee, or, if the assessee is a company, on the principal officer thereof, a notice containing all or any of the requirements which may be included in a notice under sub-section (2) of section 22, and may proceed to assess or re-assess the income, profits or gains of the assessee for all or any of the years referred to in clause (*i*), and thereupon the provisions of this Act (excepting those contained in clauses (*i*) and (*iii*) of the proviso to sub-section (1) and in sub-sections (2) and (3) of this section) shall, so far as may be, apply accordingly :

Provided that the Income-tax Officer shall not issue a notice under this sub-section unless he has recorded his reasons for doing so, and the Central Board of Revenue is satisfied on such reasons recorded that it is a fit case for the issue of such notice :

Provided further that no such notice shall be issued after the 31st day of March, 1956.

(1B) Where any assessee [12a][to whom a notice has been issued under clause (*a*) of sub-section (1) or under sub-section (1A) for any of the years ending on the 31st day of March of the years 1941 to 1948 inclusive] applies to the Central Board of Revenue at any time within six months from the receipt of such notice or before the assessment or re-assessment is made, whichever is earlier, to have the matters relating to his assessment settled, the Central Board of Revenue may, after considering the terms of settlement proposed and subject to the previous approval of the Central Government, accept the terms of such settlement, and, if it does so, shall make an order in accordance with the terms of such settlement specifying among other things the sum of money payable by the assessee. **(R. 49.)**

(1C) Any sum specified in a settlement arrived at in pursuance of sub-section (1B) may be recovered and any penalty for default in making payment of any such sum may be imposed and recovered in the manner provided in Chapter VI.

(1D) Any settlement arrived at under this section shall be conclusive as to the matters stated therein ; and no person, whose assessments have been so settled, shall be entitled to reopen in any proceeding for the recovery of any sum under this Act or in any subsequent assessment or re-assessment proceeding relating to any tax chargeable under this Act or in any other proceeding whatsoever before any court or other authority any matter which forms part of such settlement.]

(2) Where an assessment is reopened in circumstances falling under clause (*b*) of sub-section (1), the assessee may, if he has not impugned any part of the original assessment order for that year either under section 30 or under section 33A, claim that the proceedings under sub-section (1) of this section shall be dropped on his showing that he had been assessed on an amount or to a sum not lower than what he would be rightly liable for even if the items alleged to have escaped assessment had been taken into account, or the assessment or computation had been properly made :

[12a] Substituted for "to whom a notice has been issued under sub-section (1A)" by s. 18 of the Finance Act, 1956, with effect from the 1st April, 1956.

Div. 1 Ss. 34-35

Provided that in so doing he shall not be entitled to reopen matters concluded by an order under section 33B or section 35, or by a decision [13][* * *] under section 66 [14][or] section 66A.

(3) [15][No order of assessment or re-assessment, other than an order of assessment under section 23 to which clause (*c*) of sub-section (1) of section 28 applies or an order of assessment or re-assessment in cases falling within clause (*a*) of sub-section (1) or sub-section (1A) of this section shall be made after the expiry of four years from the end of the year in which the income, profits or gains were first assessable :

Provided that where a notice under clause (*b*) of sub-section (1) has been issued within the time therein limited, the assessment or re-assessment to be made in pursuance of such notice may be made before the expiry of one year from the date of the service of the notice even if at the time of the assessment or re-assessment the four years aforesaid have already elapsed :]

Provided further that nothing contained in this [16][section limiting the time within which any action may be taken or any order, assessment or re-assessment may be made,] shall apply to a re-assessment made under section 27 or [17][to an assessment or re-assessment made on the assessee or any person in consequence of or to give effect to any finding or direction contained in] an order under section 31, section 33, section 33A, section 33B, section 66 or section 66A.]

35. Rectification of mistake.—(1) [18][The Commissioner or [19][Appellate Assistant Commissioner] may, at any time [20][within four years] from the date of any order passed by him in appeal or, in the case of the Commissioner, in revision under [21][section 33A] and] the Income-tax Officer may, at any time [20][within four years] from the date of any [22][assessment order [23][or refund order] passed by him] on his own motion rectify any mistake apparent from the record [24][of the appeal, revision, [25][assessment or refund] as the case may be], and shall within the like period rectify any such mistake which has been [1][brought to his notice by an assessee] :

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[13] "Of the High Court or of the Privy Council" omitted by s. 18 of the Indian I. T. (Amendment) Act, 1953 (25 of 1953), with effect from the 1st April, 1952.

[14] Substituted for "and," *ibid.*, with effect from the 1st April, 1952.

[15] Substituted by s. 18 of the Finance Act, 1956, with effect from the 1st April, 1956.

[16] Substituted for "sub-section" by s. 18 of the Indian I. T. (Amendment) Act, 1953 (25 of 1953), with effect from the 1st April, 1952.

[17] Substituted for "in pursuance of," *ibid.*, with effect from the 1st April, 1952.

[18] Inserted by s. 6 of the Indian I. T. (Amendment) Act, 1928 (3 of 1928).

[19] Substituted for "Assistant Commissioner" by s. 42 of the Indian I. T. (Amendment) Act, 1939 (7 of 1939).

[20] Substituted for "within one year," *ibid.*

[21] Substituted for "section 33" by s. 20 of the Indian I. T. (Amendment) Act, 1941 (23 of 1941).

[22] Substituted for "demand made upon an assessee" by s. 42 of the Indian I. T. (Amendment) Act, 1939 (7 of 1939).

[23] Inserted by s. 3 of the I. T. Law Amendment Act, 1940 (12 of 1940).

[24] Substituted for "of the assessment" by s. 6 of the Indian I. T. (Amendment) Act, 1928 (3 of 1928).

[25] Substituted for "or assessment" by s. 3 of the I. T. Law Amendment Act, 1940 (12 of 1940).

[1] Substituted for "brought to his notice by the assessee" by s. 42 of the Indian I. T. (Amendment) Act, 1939 (7 of 1939).

Provided that no such rectification shall be made, having the effect of enhancing an assessment [2][or reducing a refund] unless [3][the Commissioner, the [4][Appellate Assistant Commissioner] or the Income-tax Officer, as the case may be], has given notice to the assessee of his intention so to do and has allowed him a reasonable opportunity of being heard :

[5][Provided further that no such rectification shall be made of any mistake in any order passed more than one year before the commencement of the Indian Income-tax (Amendment) Act, 1939.]

[6][(2) The provisions of sub-section (1) apply also in like manner to the rectification of mistakes by the Appellate Tribunal.]

[7][(3)] Where any such rectification has the effect of reducing the assessment, the Income-tax Officer shall make any refund which may be due to such assessee.

[7][(4)] Where any such rectification has the effect of enhancing the assessment [2][or reducing a refund] the Income-tax Officer shall serve on the assessee a notice of demand in the prescribed form specifying the sum payable, and such notice of demand shall be deemed to be issued under section 29, and the provisions of this Act shall apply accordingly.

[8][(5) Where in respect of any completed assessment of a partner in a firm it is found on the assessment or re-assessment of the firm or on any reduction or enhancement made in the income of the firm under section 31, section 33, section 33A, section 33B, section 66 or section 66A that the share of the partner in the profit or loss of the firm has not been included in the assessment of the partner or, if included, is not correct, the inclusion of the share in the assessment or the correction thereof, as the case may be, shall be deemed to be a rectification of a mistake apparent from the record within the meaning of this section, and the provisions of sub-section (1) shall apply thereto accordingly, the period of four years referred to in that sub-section being computed from the date of the final order passed in the case of the firm.

(6) Where the excess profits tax or the business profits tax payable by an assessee has been modified in appeal, revision or any other proceeding, or where any excess profits tax or business profits tax has been assessed after the completion of the corresponding assessment for income-tax (whether before or after the commencement of the Indian Income-tax (Amendment) Act, 1953), and in consequence thereof it is necessary to re-compute the total income of the assessee chargeable to income-tax, such re-computation shall be deemed to be a rectification of a mistake apparent from the record within the meaning of this section, and the provisions of sub-section (1) shall apply accordingly, the period of four years referred to in that sub-section being computed from the date of the order making or modifying the assessment of such excess profits tax or business profits tax.

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[2] Inserted by s. 3 of the I. T. Law Amendment Act, 1940 (12 of 1940).

[3] Inserted by s. 6 of the Indian I. T. (Amendment) Act, 1928 (3 of 1928).

[4] Substituted for "Assistant Commissioner" by s. 42 of the Indian I. T. (Amendment) Act, 1939 (7 of 1939).

[5] Added, *ibid.*

[6] Inserted by s. 89, *ibid.*

[7] The original sub-sections (2) and (3) were re-numbered (3) and (4), *ibid.*

[8] Inserted by s. 19 of the Indian I. T. (Amendment) Act, 1953 (25 of 1953), with effect from the 1st April, 1952.

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Explanation.—For the purposes of sub-section (6), where the assessee is a firm, the provisions of sub-section (5) shall also apply as they apply to the rectification of the assessment of the partners of the firm.

(7) Where the assessment of a company in whose case an order under section 23A has been made is modified in appeal, revision or any other proceeding or the order under section 23A is cancelled, or varied, and in consequence thereof it is necessary to re-compute the total income of the shareholders, such re-computation shall be deemed to be a rectification of a mistake apparent from the record within the meaning of this section, and the provisions of sub-section (1) shall apply thereto accordingly, the period of four years referred to in that sub-section being computed from the date of the final order passed in the case of the company.]

[9][(8) Where, as a result of proceedings initiated under clause (*a*) of sub-section (1) or under sub-section (1A) of section 34,—

(*a*) a firm or an association of persons is assessed or reassessed, or

(*b*) a company is assessed or reassessed and in respect thereof an order under section 23A is subsequently made,

and the Income-tax Officer concerned is of opinion that it is necessary to compute or recompute the total income of a partner in the firm or a member of the association of persons or a shareholder in the company, as the case may be, the Income-tax Officer may proceed to compute or recompute the total income and determine the sum payable on the basis of such computation or recomputation as if the computation or recomputation is a rectification of a mistake apparent from the record within the meaning of this section; and the provisions of sub-section (1) shall apply accordingly, the period of four years specified therein being reckoned from the date of the final order passed in the case of the firm, association or company, as the case may be.

(9) Where the Income-tax Officer is satisfied that the income-tax payable by a company on its profits and gains out of which the company has declared a dividend, has not been paid within three years after the financial year in which the dividend was declared, the amount of income-tax which a shareholder of the company is deemed himself to have paid in respect of such dividend under section 49B, or the amount for which credit is due to him under sub-section (5) of section 18 in respect of such dividend, shall be deemed to have been wrongly computed; and the Income-tax Officer may, notwithstanding anything contained in this Act, proceed to recompute such amount by reducing it in the same proportion as the amount of income-tax remaining unpaid by the company bears to the amount of income-tax payable by it on such profits and gains, as if the recomputation is a rectification of a mistake apparent from the record within the meaning of this section; and the provisions of sub-section (1) shall apply accordingly, the period of four years specified therein being reckoned from the date on which the period of three years aforesaid has expired.

(10) Where, in any of the assessments for the years beginning on the 1st day of April of the years 1948 to 1955 inclusive, a rebate of income-tax was allowed to a company on a part of its total income under clause (*i*) of the proviso to Paragraph B of Part I of the relevant Schedules to the Finance Acts specifying the rates

[9] Substituted for the original sub-sec. (8) by s. 19 of the Finance Act, 1956, with effect from the 1st April, 1956.

of tax for the relevant year, and subsequently the amount on which the rebate of income-tax was allowed as aforesaid is availed of by the company, wholly or partly, for declaring dividends in any year, the amount or that part of the amount availed of as aforesaid, as the case may be, shall, by reason of the rebate of income-tax allowed to the company and to the extent to which it has not actually been subjected to an additional income-tax in accordance with the provisions of clause (*ii*) of the proviso to Paragraph B of Part I of the Schedules to the Finance Acts above referred to, be deemed to have been made the subject of incorrect relief under this Act, and the Income-tax Officer shall recompute the tax payable by the company by reducing the rebate originally allowed, as if the recomputation is a rectification of a mistake apparent from the record within the meaning of this section and the provisions of sub-section (1) shall apply accordingly, the period of four years specified therein being reckoned from the end of the financial year in which the amount on which rebate of income-tax was allowed as aforesaid was availed of by the company wholly or partly for declaring dividends.]

36. Tax to be calculated to nearest anna.—*Omitted by s. 3 of the Finance Act, 1957 (5 of 1957).*

[9a][37. **Powers of Income-tax authorities.**—(1) The Income-tax Officer, Appellate Assistant Commissioner, Commissioner and Appellate Tribunal shall, for the purposes of this Act, have the same powers as are vested in a Court under the Code of Civil Procedure, 1908 (V of 1908), when trying a suit in respect of the following matters, namely :—

(*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.

(2) Subject to any rules made in this behalf, any Income-tax Officer specially authorised by the Commissioner in this behalf may,—

(*i*) enter and search any building or place where he has reason to believe that any books of account or other documents which in his opinion will be useful for, or relevant to, any proceeding under this Act may be found and examine them, if found ;

(*ii*) seize any such books of account or other documents or place marks of identification thereon or make extracts or copies therefrom ;

(*iii*) make a note or an inventory of any other article or thing found in the course of any search under this section which in his opinion will be useful for, or relevant to, any proceeding under this Act ;

and the provisions of the Code of Criminal Procedure, 1898 (5 of 1898), relating to searches shall apply so far as may be to searches under this section.

(3) Subject to any rules made in this behalf, any authority referred to in sub-section (1) may impound and retain in its custody for such period as it thinks

[9a] Substituted by s. 20 of the Finance Act, 1956, with effect from the 1st April, 1956.

Div. 1 Ss. 37-39

fit any books of account or other documents produced before it in any proceeding under this Act:

Provided that an Income-tax Officer shall not—

(*a*) impound any books of account or other documents without recording his reasons for so doing; or

(*b*) retain in his custody any such books or documents for a period exceeding fifteen days (exclusive of holidays) without obtaining the approval of the Commissioner therefor.

(4) Any proceeding before any authority referred to in this section shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purposes of section 196 of the Indian Penal Code (45 of 1860).]

(R. 19.) **38. Power to call for information.**—The Income-tax Officer or Assistant Commissioner may, for the purposes of this Act,—

(1) require any firm, or Hindu undivided family to furnish him with a return of the members of the firm, or of the manager or adult male members of the family, as the case may be, and of their addresses;

(2) require any person whom he has reason to believe to be a trustee, guardian, or agent, to furnish him with a return of the names of the persons for or of whom he is trustee, guardian, or agent, and of their addresses;

[10][(3) require any assessee to furnish a statement of the names and addresses of all persons to whom he has paid in any year rent, interest, commission, royalty or brokerage, or any annuity not being an annuity taxable under the head "Salaries," amounting to more than four hundred rupees, together with particulars of all such payments made;]

[11][(4) require any dealer, broker or agent or any person concerned in the management of a stock or commodity Exchange to furnish a statement of the names and addresses of all persons to whom he or the Exchange has paid any sum in connection with the sale, exchange or transfer of a capital asset, or on whose behalf or from whom he or the Exchange has received any such sum, together with particulars of all such payments and receipts;]

[12][(5) require any person, including a banking company or any officer thereof, to furnish information in relation to such points or matters, or to furnish statements of accounts and affairs verified in the manner specified by the Income-tax Officer or the Assistant Commissioner giving information in relation to such points or matters, as, in the opinion of the Income-tax Officer or the Assistant Commissioner, will be useful for, or relevant to, any proceeding under this Act.]

39. Power to inspect the register of members of any company.—The Income-tax Officer or Assistant Commissioner, or any person authorised in writing in this behalf by the Income-tax Officer or Assistant Commissioner, may inspect and, if necessary, take copies, or cause copies to be taken, of any register of the members, debenture-holders or mortgagees of any company or of any entry in such register.

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[10] Substituted by s. 44 of the Indian I. T. (Amendment) Act, 1939 (7 of 1939).

[11] Added by s. 11 of the I. T. and E. P. T. (Amendment) Act, 1947 (22 of 1947).

[12] Inserted by s. 21 of the Finance Act, 1956, with effect from the 1st April, 1956.

CHAPTER V

LIABILITY IN SPECIAL CASES

Div. 1 Ss. 40-41

[13][**40. Guardians, trustees and agents.**—(1) Where the guardian or trustee of any person being a minor, lunatic or idiot (all of which persons are hereinafter in this sub-section included in the term "beneficiary") is entitled to receive on behalf of such beneficiary, or is in receipt on behalf of such beneficiary of, any income, profits or gains chargeable under this Act, the tax shall be levied upon and recoverable from such guardian or trustee, as the case may be, in like manner and to the same amount as it would be leviable upon and recoverable from any such beneficiary if of full age or sound mind and in direct receipt of such income, profits or gains, and all the provisions of this Act shall apply accordingly.

(2) Where the trustee or agent of any person not resident in [14][the taxable territories] and not being a minor, lunatic or idiot (such person being hereinafter in this sub-section referred to as a beneficiary) is entitled to receive on behalf of such beneficiary, or is in receipt on behalf of such beneficiary of, any income, profits or gains chargeable under this Act, the tax, if not levied on the beneficiary direct, may be levied upon and recovered from such trustee or agent, as the case may be, in like manner and to the same amount as it would be leviable upon and recoverable from the beneficiary if in direct receipt of such income, profits or gains, and all the provisions of this Act shall apply accordingly.]

41. Courts of Wards, etc.—[15][(1)] In the case of income, profits or gains chargeable under this Act which [16][* * *] the Courts of Wards, the Administrators-General, the Official Trustees or [17][*] any receiver or manager (including any person whatever his designation who in fact manages property on behalf of another) appointed by or under any order of a Court, [18][or any trustee or trustees [19][appointed under a trust declared by a duly executed instrument in writing whether testamentary or otherwise] (including the trustee or trustees under any Wakf deed which is valid under the Mussalman Wakf Validating Act, 1913), are entitled to receive on behalf of any person,] the tax shall be levied upon and recoverable from such Court of Wards, Administrator-General, Official Trustee, receiver or manager [18][or trustee or trustees], in the like manner and to the same amount as it would be leviable upon and recoverable from [20][the person on whose behalf such income, profits or gains are receivable], and all the provisions of this Act shall apply accordingly :

[21][Provided that where any such income, profits or gains or any part thereof are not specifically receivable on behalf of any one person, or where the individual

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[13] Substituted by s. 21 of the Indian I. T. (Amendment) Act, 1941 (23 of 1941).

[14] Substituted for "British India" by the Adaptation of Laws Order, 1950.

[15] The original section 41 was re-numbered sub-section (1) by s. 46 of the Indian I. T. (Amendment) Act, 1939 (7 of 1939).

[16] "Are received by" omitted, *ibid.*

[17] "By" omitted, *ibid.*

[18] Inserted, *ibid.*

[19] Substituted for "appointed under a duly executed trust deed" by s. 22 of the Indian I. T. (Amendment) Act, 1941 (23 of 1941).

[20] Substituted for "any person on whose behalf such income, profits or gains are received" by s. 46 of the Indian I. T. (Amendment) Act, 1939 (7 of 1939).

[21] Added, *ibid.*

Div. 1 Ss. 41-42

shares of the persons on whose behalf they are receivable are indeterminate or unknown, the tax shall be levied and recoverable at the maximum rate, [22][but, where such persons have no other personal income chargeable under this Act and none of them is an artificial juridical person, as if such income, profits or gains or such part thereof were the total income of an association of persons]:

Provided further that when part only of the income, profits and gains of a trust is chargeable under this Act, that proportion only of the income, profits and gains receivable by a beneficiary from the trust which the part so chargeable bears to the whole income, profits and gains of the trust shall be deemed to have been derived from that part.]

[23][(2) Nothing contained in sub-section (1) shall prevent either the direct assessment of the person on whose behalf income, profits or gains therein referred to are receivable, or the recovery from such person of the tax payable in respect of such income, profits or gains.]

(R. 33.)

42. [24][Income deemed to accrue or arise within [25][the taxable territories.]]—(1) [1][All income, profits or gains accruing or arising,] whether directly or indirectly, through or from any business connection [2][in [25][the taxable territories,] or through or from any property in [3][the taxable territories,] or through or from any asset or source of income in [3][the taxable territories,] or through or from any money lent at interest and brought into [3][the taxable territories] in cash or in kind] [4][or through or from the sale, exchange or transfer of a capital asset in [3][the taxable territories],] shall be deemed to be income accruing or arising within [3][the taxable territories,] and [5][where the person entitled to the income, profits or gains is not resident in [3][the taxable territories,] shall be chargeable to income-tax either in his name or in the name of his agent, and in the latter case] such agent shall be deemed to be, for all the purposes of this Act, the assessee in respect of such income-tax:

[6][Provided that where the person entitled to the income, profits or gains is not resident in [7][the taxable territories] the income-tax so chargeable may be recovered by deduction under any of the provisions of section 18 and that] any arrears of tax may be recovered also in accordance with the provisions of this Act from any assets of the non-resident person which are, or may at any time come, within [7][the taxable territories:]

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[22] Added by s. 5 of the Indian I. T. (Amendment) Act, 1946 (8 of 1946).

[23] Added by s. 46 of the Indian I. T. (Amendment) Act, 1939 (7 of 1939).

[24] Substituted for "Non-residents" by s. 12 of the I. T. and E. P. T. (Amendment) Act, 1947 (22 of 1947).

[25] Substituted for "British India" by the Adaptation of Laws Order, 1950.

[1] Substituted for the original words by s. 47 of the Indian I. T. (Amendment) Act, 1939 (7 of 1939).

[2] Substituted for "or property in British India," *ibid.*

[3] Substituted for "British India" by the Adaptation of Laws Order, 1950.

[4] Inserted by s. 12 of the I. T. and E. P. T. (Amendment) Act, 1947 (22 of 1947).

[5] Substituted for the original words by s. 47 of the Indian I. T. (Amendment) Act, 1939 (7 of 1939).

[6] Substituted for "Provided that" by s. 47 of the Indian I. T. (Amendment) Act, 1939 (7 of 1939).

[7] Substituted for "British India" by the Adaptation of Laws Order, 1950.

[8][Provided further that any such agent, or any person who apprehends that he may be assessed as such an agent, may retain out of any money payable by him to such non-resident person a sum equal to his estimated liability under this sub-section, and in the event of any disagreement between the non-resident person and such agent or person as to the amount to be so retained, such agent or person may secure from the Income-tax Officer a certificate stating the amount to be so retained pending final settlement of the liability, and the certificate so obtained shall be his warrant for retaining that amount: **Div. 1 Ss. 42-43**

Provided further that the amount recoverable from such agent or person at the time of final settlement shall not exceed the amount specified in such certificate except to the extent to which such agent or person may at such time have in his hands additional assets of such non-resident person.]

(2) Where a person not resident [8][or not ordinarily resident] in [7][the taxable territories] [9][* * * *] carries on business with a person resident in [7][the taxable territories,] and it appears to the Income-tax Officer [10][* * *] that owing to the close connection [11][between such persons the course of business is so arranged that the business done by the resident person with the person not resident or not ordinarily resident] produces to the resident either no profits or less than the ordinary profits which might be expected to arise in that business, the profits derived therefrom or which may reasonably be deemed to have been derived therefrom, shall be chargeable to income-tax in the name of the resident person who shall be deemed to be, for all the purposes of this Act, the assessee in respect of such income-tax. **(R. 34.)**

[12][(3) In the case of a business of which all the operations are not carried out in [7][the taxable territories,] the profits and gains of the business deemed under this section to accrue or arise in [7][the taxable territories] shall be only such profits and gains as are reasonably attributable to that part of the operations carried out in [7][the taxable territories.]]

43. Agent to include persons treated as such.—Any person employed by or on behalf of a person residing out of [13][the taxable territories,] or having any business connection with such person, or through whom such person is in the receipt of any income, profits or gains upon whom the Income-tax Officer has caused a notice to be served of his intention of treating him as the agent of the non-resident person shall, for all the purposes of this Act, be deemed to be such agent:

[14][Provided that where transactions are carried on in the ordinary course of business through a broker in [13][the taxable territories] in such circumstances that the broker does not in respect of such transactions deal directly with or on behalf of a non-resident principal but deals with or through a non-resident broker who is carrying on such transactions in the ordinary course of his business and not as a principal such first-mentioned broker shall not be deemed to be an agent under this section in respect of such transactions :]

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[7] Substituted for "British India" by the Adaptation of Laws Order, 1950.

[8] Inserted by s. 47 of the Indian I. T. (Amendment) Act, 1939 (7 of 1939).

[9] Certain words were omitted, *ibid.*

[10] "Or the Assistant Commissioner, as the case may be" omitted, *ibid.*

[11] Substituted, *ibid.*

[12] Substituted, *ibid.*

[13] Substituted for "British India" by the Adaptation of Laws Order, 1950.

[14] Inserted by s. 48 of the Indian I. T. (Amendment) Act, 1939 (7 of 1939).

Div. 1 Ss. 43-44B

Provided [14a][further] that no person shall be deemed to be the agent of a non-resident person, unless he has had an opportunity of being heard by the Income-tax Officer as to his liability.

[15][*Explanation.*—A person, whether residing in or out of [18][the taxable territories,] who acquires, after the 28th day of February, 1947, whether by sale, exchange or transfer, a capital asset in [18][the taxable territories] from a person residing out of [18][the taxable territories] shall, for the purposes of charging to tax the capital gain arising from such sale, exchange or transfer, be deemed to have a business connection, within the meaning of this section, with such person residing out of [18][the taxable territories.]]

[16][**44. Liability in case of discontinued firm or association.**—Where any business, profession or vocation carried on by a firm or association of persons has been discontinued, or where an association of persons is dissolved, every person who was at the time of such discontinuance or dissolution a partner of such firm or a member of such association shall, in respect of the income, profits and gains of the firm or association, be jointly and severally liable to assessment under Chapter IV and for the amount of tax payable and all the provisions of Chapter IV shall, so far as may be, apply to any such assessment.]

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[17][CHAPTER V-A

SPECIAL PROVISIONS RELATING TO CERTAIN CLASSES OF SHIPPING

44A. Liability to tax of occasional shipping.—The provisions of this Chapter shall, notwithstanding anything contained in the other provisions of this Act, apply for the purpose of the levy and recovery of tax in the case of any person who resides out of [18][the taxable territories] and carries on business in [18][the taxable territories] in any year as the owner or charterer of a ship (such person hereinafter in this Chapter being referred to as the principal), unless the Income-tax Officer is satisfied that there is an agent of such principal from whom the tax will be recoverable in the following year under the other provisions of this Act.

44B. Return of profits and gains.—(1) Before the departure from any port in [18][the taxable territories] of any ship in respect of which the provisions of this Chapter apply, the master of the ship shall prepare and furnish to the Income-tax Officer a return of the full amount paid or payable to the principal, or to any person on his behalf, on account of the carriage of all passengers, live-stock or goods shipped at that port since the last arrival of the ship thereat.

(2) On receipt of the return, the Income-tax Officer shall assess the amount referred to in sub-section (1), and for this purpose may call for such accounts or documents as he may require, and [19][one-sixth] of the amount so assessed shall be deemed to be the amount of the profits and gains accruing to the principal on account of the carriage of the passengers, live-stock and goods shipped at the port.

[14a] Inserted by s. 48 of the Indian I. T. (Amendment) Act, 1939 (7 of 1939).

[15] Added by s. 13 of the I. T. and E. P. T. (Amendment) Act, 1947 (22 of 1947).

[16] Substituted by s. 49 of the Indian I. T. (Amendment) Act, 1939 (7 of 1939).

[17] Inserted by s. 3 of the Indian I. T. (Further Amendment) Act, 1923 (27 of 1923).

[18] Substituted for "British India" by the Adaptation of Laws Order, 1950.

[19] Substituted for "one-twentieth" by s. 3 of the Finance Act, 1950 (25 of 1950), with effect from the 1st April, 1950.

(3) When the profits and gains have been assessed as aforesaid, the Income-tax Officer shall determine the sum payable as tax thereon at the rate for the time being applicable to the total income of a company, and such sum shall be payable by the master of the ship, and a port-clearance shall not be granted to the ship until the Customs-collector, or other officer duly authorised to grant the same, is satisfied that the tax has been duly paid.

44C. Adjustment.—Nothing in this Chapter shall be deemed to prevent a principal from claiming, [20][in the year] following that in which any payment has been made on his behalf under this Chapter, that an assessment be made of his total income in the previous year, and that the tax payable on the basis thereof be determined in accordance with the other provisions of this Act, and, if he so claims, any such payment as aforesaid shall be treated as a payment in advance of the tax and the difference between the sum so paid and the amount of tax found payable by him shall be paid by him or refunded to him, as the case may be.]

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[21][CHAPTER V-B

SPECIAL PROVISIONS RELATING TO AVOIDANCE OF LIABILITY TO INCOME-TAX AND SUPER-TAX

44D. Avoidance of income-tax by transactions resulting in the transfer of income to persons resident or ordinarily resident abroad. (1) Where any person has, by means of a transfer of assets, by virtue or in consequence whereof, either alone or in conjunction with associated operations, any income which if it were the income of such person would be chargeable to income-tax becomes payable to a person not resident or to a person resident but not ordinarily resident in [22][the taxable territories,] acquired any rights by virtue or in consequence of which he has within the meaning of this section power to enjoy such income, whether forthwith or in the future, that income shall, whether it would or would not have been chargeable to income-tax apart from the provisions of this section, be deemed to be income of such first-mentioned person for all the purposes of this Act.

(2) Where any person receives or is entitled to receive, whether before or after any transfer of assets by virtue or in consequence whereof either alone or in conjunction with associated operations any income becomes payable to a person not resident or resident but not ordinarily resident in [22][the taxable territories,] any sum paid or payable by way of a loan or repayment of a loan or any other sum, being a sum which is not paid or payable for full consideration in money or money's worth, paid or payable otherwise than as income, such income shall, whether it would or would not have been chargeable to income-tax apart from the provisions of this section, be deemed to be the income of the first-mentioned person for all the purposes of this Act.

(3) Sub-sections (1) and (2) shall not apply if such first-mentioned person shows to the satisfaction of the Income-tax Officer either—

(*a*) that neither the transfer nor any associated operation had for its purpose or for one of its purposes the avoidance of liability to taxation ; or

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[20] Substituted for "in any year" by s. 50 of the Indian I. T. (Amendment) Act, 1939 (7 of 1939).

[21] Inserted by s. 51, *ibid.*

[22] Substituted for "British India" by the Adaptation of Laws Order, 1950.

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(*b*) that the transfer and all associated operations were *bona fide* commercial transactions and were not designed for the purpose of avoiding liability to taxation.

(4) For the purposes of this section, an "associated operation" means, in relation to any transfer, an operation of any kind effected by any person in relation to any of the assets transferred or any assets representing whether directly or indirectly any of the assets transferred, or to the income arising from any such assets, or to any assets representing whether directly or indirectly the accumulations of income arising from any such assets.

(5) A person shall, for the purposes of this section, be deemed to have power to enjoy income of a person not resident, or resident but not ordinarily resident, in [23][the taxable territories,] if—

(*a*) the income is in fact so dealt with by any person as to be calculated at some point of time and, whether in the form of income or not, to enure for the benefit of the first-mentioned person, or

(*b*) the receipt or accrual of the income operates to increase the value to such first-mentioned person of any assets held by him or for his benefit, or

(*c*) such first-mentioned person receives or is entitled to receive at any time any benefit provided or to be provided out of that income or out of moneys which are or will be available for the purpose by reason of the effect or successive effects of the associated operations on that income and on any assets which represent that income, or

(*d*) such first-mentioned person has power by means of the exercise of any power of appointment or power of revocation or otherwise to obtain for himself, whether with or without the consent of any other person, the beneficial enjoyment of the income, or

(*e*) such first-mentioned person is able, in any manner whatsoever and whether directly or indirectly, to control the application of the income.

(6) In determining whether a person has power to enjoy income within the meaning of this section, regard shall be had to the substantial result and effect of the transfer and any associated operations, and all benefits which may at any time accrue to such person as a result of the transfer and any associated operations shall be taken into account irrespective of the nature or form of the benefits.

(7) For the purposes of this section—

(*a*) the expression "assets" includes property or rights of any kind, and the expression "transfer" in relation to rights includes the creation of those rights ;

(*b*) the expression "benefit" includes a payment of any kind ;

(*c*) references to income of a person not resident or of a person not ordinarily resident in [23][the taxable territories] shall, where the amount of the income of a company for any year or period has been deemed to have been distributed under sub-section (1) of section 23A, include references to so much of the income of the company for that year or period as is equal to the amount deemed to have been distributed to that person ;

[23] Substituted for "British India" by the Adaptation of Laws Order, 1950.

(*d*) references to assets representing any assets, income or accumulations of income include references to shares in or obligation of any company to which, or obligation of any other person to whom, those assets, that income or those accumulations are or have been transferred ;

(*e*) any body corporate incorporated outside [23a][the taxable territories] shall be treated as if it were resident out of [23a][the taxable territories] whether it is so resident or not.

(8) The provisions of this section shall apply for the purposes of assessment to income-tax and super-tax for the year ending on the 31st day of March, 1940, and subsequent years, and shall apply, in relation to transfers of assets and associated operations whether carried out before or after the commencement of the Indian Income-tax (Amendment) Act, 1939.

(9) Where any person has been charged to tax on any income deemed to be his under the provisions of this section, and that income is subsequently received by him, whether as income or in any other form, it shall not again be deemed to form part of his income for the purposes of this Act.

44E. Avoidance of tax by certain transactions in securities.—(1) Where the owner of any securities (in this sub-section and in sub-section (2) referred to as "the owner") agrees to sell or transfer those securities, and by the same or any collateral agreement—

(*a*) agrees to buy back or re-acquire the securities, or

(*b*) acquires an option, which he subsequently exercises, to buy back or re-acquire the securities,

then, if the result of the transaction is that any interest becoming payable in respect of the securities is receivable otherwise than by the owner, the interest payable as aforesaid shall, whether it would or would not have been chargeable to tax apart from the provisions of this section, be deemed for all the purposes of this Act to be the income of the owner and not to be the income of any other person.

(2) The references in sub-section (1) to buying back or re-acquiring the securities shall be deemed to include references to buying or acquiring similar securities, so, however, that where similar securities are bought or acquired, the owner shall be under no greater liability to tax than he would have been under if the original securities had been bought back or re-acquired.

(3) Where any person carrying on a business which consists wholly or partly in dealing in securities agrees to buy or acquire any securities, and by the same or any collateral agreement—

(*a*) agrees to sell back or re-transfer the securities, or

(*b*) acquires an option, which he subsequently exercises, to sell back or re-transfer the securities,

then, if the result of the transaction is that any interest becoming payable in respect to the securities is receivable by him, no account shall be taken of the transaction in computing for any of the purposes of this Act the profits arising from or loss sustained in the business.

(4) Sub-section (3) shall have effect, subject to any necessary modifications, as if references to selling back or re-transferring the securities included references to selling or transferring similar securities.

[23a] Substituted for "British India" by the Adaptation of Laws Order, 1950.

Div. 1 Ss. 44E-44F

(5) For the purpose of this section—

(*a*) the expression "interest" includes a dividend;

(*b*) the expression "securities" includes stocks and shares;

(*c*) securities shall be deemed to be similar if they entitle their holders to the same rights against the same persons as to capital and interest and the same remedies for the enforcement of those rights, notwithstanding any difference in the total nominal amounts of the respective securities or in the form in which they are held or the manner in which they can be transferred.

(6) The Income-tax Officer may by notice in writing require any person to furnish him within such time as he may direct (not being less than twenty-eight days), in respect of all securities of which such person was the owner at any time during the period specified in the notice, such particulars as he considers necessary for the purposes of this section and for the purpose of discovering whether tax has been borne in respect of the interest on all those securities; and, if that person without reasonable excuse fails to comply with the notice, he shall be liable to a penalty not exceeding five hundred rupees and to a further penalty of the like amount for every day after the infliction of such penalty during which the failure continues.

44F. Avoidance of tax by sales *cum*-dividend.—(1) Any person upon whom notice is served by the Income-tax Officer requiring him to furnish a statement of particulars relating to any securities in which, at any time during the period specified in the notice he has had any beneficial interest, and in respect of which, within such period, either no income was received by him, or the income received by him was less than the sum to which the income would have amounted if the income from such securities had accrued from day to day and been apportioned accordingly, shall, whether an assessment to income-tax or super-tax in respect of his total income has or has not been made for the relevant year or years of assessment, furnish such a statement and such particulars in the form and within the time (not being less than twenty-eight days) required by the notice.

(2) If it appears to the Income-tax Officer by reference to all the circumstances in relation to the securities of any such person (including circumstances with respect to sales, purchases, dealings, contracts, arrangements, transfers, or any other transactions relating to such securities) that such person has thereby avoided or would avoid more than ten per cent of the amount of the income-tax or super-tax for any year which would have been payable in his case in respect of the income from those securities if the income had been deemed to accrue from day to day and had been apportioned accordingly, and the income so deemed to have been apportioned to him had been treated as part of his total income from all sources for the purposes of income-tax or super-tax, then those securities shall be deemed to be securities to which sub-section (3) applies.

(3) For the purposes of assessment to income-tax or super-tax in the case of any such person, the income from any securities to which this sub-section applies shall be deemed to accrue from day to day, and in the case of the sale or transfer of any such securities by or to him shall be deemed to have been received as and when it is deemed to have accrued:

Provided that this section shall not apply if such person proves to the satisfaction of the Income-tax Officer that the avoidance of income-tax or super-tax was exceptional and not systematic and that there was not in his case in any of

the three preceding years any such avoidance of income-tax or super-tax, or that the provisions of section 44E have been applied in his case in respect of such income.

(4) If any person fails to furnish any statement or particulars required under this section, or if the Income-tax Officer is not satisfied with any statement or particulars furnished under this section, the Income-tax Officer may make an estimate of the amount of the income which, under the foregoing provisions of this section, is to be deemed to form part of the person's total income for the purposes of income-tax or super-tax.

(5) If any person without reasonable excuse fails to furnish any statement or particulars required under this section, he shall be liable to a penalty not exceeding five hundred rupees, and to a further penalty of the like amount for every day after the infliction of such penalty during which the failure continues.

(6) For the purpose of this section the expression "securities" includes stocks and shares.]

CHAPTER VI

RECOVERY OF TAX AND PENALTIES

45. Tax when payable.—Any amount specified as payable in a notice of demand [24][under sub-section [25][(3)] of section 23A or] under section 29 or an order under section 31 [1][* * *] or section 33, shall be paid within the time, at the place and to the person mentioned in the notice or order, or if a time is not so mentioned, then on or before the first day of the second month following the date of the service of the notice or order, and any assessee failing so to pay shall be deemed to be in default, provided that, when an assessee has presented an appeal under section 30 [2][* * * *], the Income-tax Officer may in his discretion treat the assessee as not being in default as long as such appeal is undisposed of:

[3][Provided further that where an assessee has been assessed in respect of income arising outside [4][the taxable territories] in a country the laws of which prohibit or restrict the remittance of money to [4][the taxable territories], the Income-tax Officer shall not treat the assessee as in default in respect of that part of the tax which is due in respect of that amount of his income which by reason of such prohibition or restriction cannot be brought into [4][the taxable territories,] and shall continue to treat the assessee as not in default in respect of such part of the tax until the prohibition or restriction is removed.

Explanation.—For the purposes of this section income shall be deemed to have been brought into [4][the taxable territories] if it has been utilized or could have been utilized for the purposes of any expenditure actually incurred by the assessee without [4][the taxable territories] or if the income whether capitalized or not has been brought into [4][the taxable territories] in any form.]

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[24] Inserted by s. 8 of the Indian I. T. (Amendment) Act, 1930 (21 of 1930).

[25] Substituted for "(4)" by s. 52 of the Indian I. T. (Amendment) Act, 1939 (7 of 1939).

[1] "Or section 32" omitted by s. 23 of the Indian I. T. (Amendment) Act, 1941 (23 of 1941).

[2] "Or under section 33A" omitted by s. 52 of the Indian I. T. (Amendment) Act, 1939 (7 of 1939).

[3] This proviso and explanation were added, *ibid.*

[4] Substituted for "British India" by the Adaptation of Laws Order, 1950.

Div. 1 S. 46

46. Mode and time of recovery.—(1) When an assessee is in default in making a payment of income-tax, the Income-tax Officer may in his discretion direct that, in addition to the amount of the arrears, a sum not exceeding that amount shall be recovered from the assessee by way of penalty.

[5][(1A) For the purposes of sub-section (1), the Income-tax Officer may direct the recovery of any sum less than the amount of the arrears and may enhance the sum so directed to be recovered from time to time in the case of a continuing default, so however that the total sum so directed to be recovered shall not exceed the amount of the arrears payable].

(2) The Income-tax Officer may forward to the Collector a certificate under his signature specifying the amount of arrears due from an assessee, and the Collector, on receipt of such certificate, shall proceed to recover from such assessee the amount specified therein as if it were an arrear of land revenue :

[6][Provided that without prejudice to any other powers of the Collector in this behalf, he shall for the purpose of recovering the said amount have [7][* * *] the powers which under the Code of Civil Procedure, 1908 (V of 1908), a Civil Court has [8][* * *] for the purpose of the recovery of an amount due under a decree.]

(3) In any area with respect to which the Commissioner has directed that any arrears may be recovered by any process enforceable for the recovery of an arrear of any municipal tax or local rate imposed under any enactment for the time being in force in any part of the [9][State], the Income-tax Officer may proceed to recover the amount due by such process.

(4) The Commissioner may direct by what authority any powers or duties incident under any such enactment as aforesaid to the enforcement of any process for the recovery of a municipal tax or local rate shall be exercised or performed when that process is employed under sub-section (3).

(5) If any assessee is in receipt of any income chargeable under the head "Salaries" the Income-tax Officer may require any person paying the same to deduct from any payment subsequent to the date of such requisition any arrears due from such assessee, and such person shall comply with any such requisition, and shall pay the sum so deducted to the credit of the [10][Central Government], or as the [11][Central Board of Revenue] directs.

[12][(5A) The Income-tax Officer may at any time or from time to time, by notice in writing (a copy of which shall be forwarded to the assessee at his last address known to the Income-tax Officer) require any person from whom money is due or may become due to the assessee or any person who holds or may sub-

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[5] Inserted by s. 8 of the Indian I. T. (Amendment) Act, 1928 (3 of 1928).

[6] Added by s. 16 of the Indian I. T. (Second Amendment) Act, 1933 (18 of 1933).

[7] "In respect of the attachment and sale of debts due to the assessee" omitted by s. 24 of the Indian I. T. (Amendment) Act, 1941 (23 of 1941).

[8] "In respect of the attachment and sale of debts due to a judgment debtor" omitted, *ibid.*

[9] Substituted for "Province" by the Adaptation of Laws Order, 1950.

[10] Substituted for "Government of India" by the Government of India (Adaptation of Indian Laws) Order, 1937.

[11] Substituted for "Board of Inland Revenue" by s. 4 and Sch. of the Central Board of Revenue Act, 1924 (4 of 1924).

[12] Inserted by s. 9 of the I. T. and B. P. T. (Amendment) Act, 1948 (48 of 1948), with effect from the 30th March, 1948.

sequently hold money for or on account of the assessee to pay to the Income-tax Officer, either forthwith upon the money becoming due or being held or at or within the time specified in the notice (not being before the money becomes due or is held) so much of the money as is sufficient to pay the amount due by the tax-payer in respect of arrears of income-tax and penalty or the whole of the money when it is equal to or less than that amount.

The Income-tax Officer may at any time or from time to time amend or revoke any such notice or extend the time for making any payment in pursuance of the notice.

Any person making any payment in compliance with a notice under this sub-section shall be deemed to have made the payment under the authority of the assessee and the receipt of the Income-tax Officer shall constitute a good and sufficient discharge of the liability of such person to the assessee to the extent of the amount referred to in the receipt.

Any person discharging any liability to the assessee after receipt of the notice referred to in this sub-section shall be personally liable to the Income-tax Officer to the extent of the liability discharged or to the extent of the liability of the assessee for tax and penalties, whichever is less.

If the person to whom a notice under this sub-section is sent fails to make payment in pursuance thereof to the Income-tax Officer, further proceedings may be taken by and before the Collector on the footing that the Income-tax Officer's notice has the same effect as an attachment by the Collector in exercise of his powers under the proviso to sub-section (2) of section 46.

Where a person to whom a notice under this sub-section is sent objects to it on the ground that the sum demanded or any part thereof is not due to the assessee or that he does not hold any money for or on account of the assessee, then, nothing contained in this section shall be deemed to require such person to pay any such sum or part thereof, as the case may be, to the Income-tax Officer.]

[13][(6) If the recovery of income-tax in any area has been entrusted to a [14][State] Government under [15][Article 258(1) of the Constitution], the [14][State] Government may direct with respect to that area or any part thereof, that income-tax shall be recovered therein with, and as an addition to, any municipal tax or local rate, by the same person and in the same manner as the municipal tax or local rate is recovered.]

(7) Save in accordance with the provisions of sub-section (1) of section 42, [16][or of the proviso to section 45], no proceedings for the recovery of any sum payable under this Act shall be commenced after the expiration of one year from the last day of [17][the financial year] in which any demand is made under this Act :

[18][Provided that the period of one year herein referred to shall—

(*i*) where an assessee has been treated as not being in default under section 45 as long as his appeal is undisposed of, be reckoned from the date on which the appeal is disposed of ;

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[13] Substituted by the Government of India (Adaptation of Indian Laws) Order, 1937.

[14] Substituted for "Provincial" by the Adaptation of Laws Order, 1950.

[15] Substituted for "section 124(1) of the Government of India Act, 1935," *ibid.*

[16] Inserted by s. 53 of the Indian I. T. (Amendment) Act, 1939 (7 of 1939).

[17] Substituted for "the year," *ibid.*

[18] Substituted by s. 21 of the Indian I. T. (Amendment) Act, 1953 (25 of 1953), with effect from the 1st April, 1952.

Div. 1 Ss. 46-46A

(*ii*) where recovery proceedings in any case have been stayed by any order of a court, be reckoned from the date from which the order is withdrawn ;

(*iii*) where the date of payment of tax has been extended by an Income-tax authority, be reckoned from the date up to which the time for payment had been extended ;

(*iv*) where the sum payable is allowed to be paid by instalments, *from the date on which the last of such instalments was due :

Provided further that nothing in the foregoing proviso shall have the effect of reducing the period within which proceedings for recovery can be commenced, namely, after the expiration of one year from the last day of the financial year in which the demand is made.

Explanation.—A proceeding for the recovery of any sum shall be deemed to have commenced within the meaning of this section, if some action is taken to recover the whole or any part of the sum within the period hereinbefore referred to, and for the removal of doubts it is hereby declared that the several modes of recovery specified in this section are neither mutually exclusive, nor affect in any way any other law for the time being in force relating to the recovery of debts due to Government, and it shall be lawful for the Income-tax Officer, if for any special reasons to be recorded he so thinks fit, to have recourse to any such mode of recovery notwithstanding that the tax due is being recovered from an assessee by any other mode.]

[19][(8) For the purposes of this section, the expression "Collector" shall include a Collector in Pakistan and the Income-tax Officer may forward a certificate under sub-section (2) to a Collector in Pakistan through the Central Board of Revenue of Pakistan, if the assessee has property in the district of that Collector.

(9) Where a Collector in [20][the taxable territories] receives through the Central Board of Revenue of India a certificate under the signature of an Income-tax Officer in Pakistan, the Collector shall proceed to recover the amount specified therein in the manner in which he would proceed to recover the amount specified in a certificate received from an Income-tax Officer in [20][the taxable territories,] and shall remit any sum so recovered by him to the Income-tax Officer in Pakistan, after deducting his expenses in connection with the recovery proceedings.

(10) The provisions of sub-sections (8) and (9) shall remain in force only so long as there are in force similar provisions in this Act as in force as part of the law of Pakistan or under any other similar Act forming part of the law of Pakistan for the recovery of tax by a Collector in Pakistan on receipt of a certificate from an Income-tax Officer in [20][the taxable territories.]]

[21][**46A. Persons leaving India to obtain tax clearance certificate.**—(1) Subject to such exceptions as may be made by the Central Government, no person who is not domiciled in India, or who, even if domiciled in India at the time of his departure, has, in the opinion of an Income-tax authority, no intention of returning to India, shall leave the territory of India by land, sea or air unless he

* The words "be reckoned" which should occur here seem to have been inadvertently omitted by the draftsman.

[19] Added by the India (Adaptation of Income-tax, Profits Tax and Revenue Recovery Acts) Order, 1947 (G. G. O. 31).

[20] Substituted for "British India" by the Adaptation of Laws Order, 1950.

[21] Inserted by s. 22 of the Indian I. T. (Amendment) Act, 1953 (25 of 1953), with effect from the 1st April, 1952.

first obtains from such authority as may be appointed by the Central Government in this behalf (hereinafter in this section referred to as the "competent authority") a certificate stating that he has no liabilities under this Act, the Excess Profits Tax Act, 1940 (XV of 1940), or the Business Profits Tax Act, 1947 (XXI of 1947), or that satisfactory arrangements have been made for the payment of all or any of such taxes which are or may become payable by that person : **Div. 1 Ss. 46A-48**

Provided that if the competent authority is satisfied that such person intends to return to India, he may issue an exemption certificate either in respect of a single journey or in respect of all journeys to be undertaken by that person within such period as may be specified in the certificate.

(2) If the owner or charterer of any ship or aircraft carrying persons from any place in the territory of India to any place outside the territory allows any person to whom sub-section (1) applies, to travel by such ship or aircraft without first satisfying himself that such person is in possession of a certificate as required by that sub-section, he shall be personally liable to pay the whole or any part of the amount of tax, if any, payable by such person as the Income-tax Officer may, having regard to the circumstances of the case, determine.

Explanation.—For the purposes of this sub-section the expressions "owner" and "charterer" include any representative, agent or employee empowered by the owner or charterer to allow persons to travel by the ship or aircraft.

(3) In respect of any sum payable by the owner or charterer of any ship or aircraft under sub-section (2), the owner or charterer, as the case may be, shall be deemed to be an assessee in default within the meaning of sub-section (1) of section 46.

(4) The Central Government may make rules for regulating any matter necessary for, or incidental to, the purpose of carrying out the provisions of this section.]

47. Recovery of penalties.—Any sum imposed by way of penalty under the provisions of sub-section (2) of section 25, section 28, [22][sub-section (6) of section 44E, sub-section (5) of section 44F] or sub-section (1) of section 46, [23][and any interest payable under the provisions of sub-section (4), (6), (7) or (8) of section 18A] shall be recoverable in the manner provided in this Chapter for the recovery of arrear of tax.

CHAPTER VII

REFUNDS

[24][**48. Refunds.**—(1) If any individual, Hindu undivided family, company, local authority, firm or other association of persons, or any partner of a firm or member of an association individually satisfies the Income-tax Officer or other authority appointed by the Central Government in this behalf that the amount of tax paid by him or on his behalf or treated as paid on his behalf for any year exceeds the amount with which he is properly chargeable under this Act for that year, he shall be entitled to a refund of any such excess. **(R. 36, 39, 41.)**

[22] Inserted by s. 54 of the Indian I. T. (Amendment) Act, 1939 (7 of 1939).

[23] Inserted by s. 12 of the Indian I. T. (Amendment) Act, 1944 (11 of 1944).

[24] Substituted by s. 55 of the Indian I. T. (Amendment) Act, 1939 (7 of 1939).

Div. 1 Ss. 48-49B

(2) [25][The Appellate Assistant Commissioner or the Appellate Tribunal in the exercise of their appellate powers] if satisfied to the like effect shall cause a refund to be made by the Income-tax Officer of any amount found to have been wrongly paid or paid in excess.

(3) Where income of one person is included under any provision of this Act in the total income of any other person such other person only shall be entitled to a refund under this section in respect of such income.

(4) Nothing in this section shall operate to validate any objection or appeal which is otherwise invalid or to authorise the revision of any assessment or other matter which has become final and conclusive, or the review by any officer of a decision of his own which is subject to appeal or revision, or where any relief is specifically provided elsewhere in this Act, to entitle any person to any relief other or greater than that relief or to entitle any person to claim a refund of tax payable before the commencement of the Indian Income-tax (Amendment) Act, 1939, which he would not be entitled to claim but for the passing of that Act].

48A. General power to make refunds.—*Omitted by s. 56 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939).*

(R. 40, 41.)

49. Relief in respect of U.K. income-tax.—*Omitted by s. 10 of the Income-tax and B.P.T. (Amendment) Act, 1948 (48 of 1948), with effect from the 30th March, 1948.*

[1][[2]**[49A. Agreement for granting relief in respect of double taxation or for avoidance thereof.**—The Central Government may enter into an agreement—

(*a*) [3] * * * with the Government of any country outside India for the granting of relief in respect of income on which have been paid both income-tax (including super-tax) under this Act and income-tax [4][in that country], or

(*b*) with the Government of any country outside India for the avoidance of double taxation of income, profits and gains under this Act and under the corresponding law in force in that country ;

and may, by notification in the official Gazette, make such provisions as may be necessary for implementing the agreement.]

[5][**49B. Income-tax on company's dividend deemed to have been paid by shareholder.**—[6][(1)]] Where any dividend has been paid, credited or distributed or is deemed to have been paid, credited or distributed to any of the

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[25] Substituted for the original words by s. 91, *ibid.*

[1] Sections 49A, 49B, 49C and 49D were inserted by s. 58 of the Indian I. T. (Amendment) Act, 1939 (7 of 1939).

[2] Substituted for the original sections 49A and 49AA by s. 3 of the Finance Act, 1953 (14 of 1953), with effect from the 1st April, 1953. (Section 49AA had been inserted by the India (Adaptation of Income-tax, Profits Tax and Revenue Recovery Acts) Order, 1947 (G. G. O. 31)).

[3] "With the Government of the State of Jammu and Kashmir or" omitted by s. 2 and Sch. of the Taxation Laws (Extension to Jammu and Kashmir) Act, 1954 (41 of 1954).

[4] Substituted for "in that State or in that country, as the case may be", *ibid.*

[5] Substituted by s. 25 of the Indian I. T. (Amendment) Act, 1941 (23 of 1941).

[6] The original section 49B was numbered as sub-section (1) by s. 23 of the Indian I. T. (Amendment) Act, 1953 (25 of 1953), with effect from the 1st April, 1952.

persons specified in section 3 who is a shareholder of a company which is assessed to income-tax in [7][the taxable territories] or elsewhere, [8][such person shall, if the dividend is included in his total income, be deemed] in respect of such dividend himself to have paid income-tax (exclusive of super-tax) [9][of an amount equal to the sum by which the dividend has been increased under sub-section (2) of section 16].]

[10][(2) For the purposes of sub-section (1), income-tax shall be deemed to include agricultural income-tax assessed on a company by any State Government [11]* * *, and where any shareholder proves that the company has been so assessed to agricultural income-tax, he shall be entitled to the reduction from the tax payable by him under this Act of a sum equal to—

(*a*) the appropriate agricultural income-tax (reduced by the amount of refund, if any, allowed to him by the State Government), or

(*b*) the appropriate Indian income-tax on the amount of the dividend which has not been increased under sub-section (2) of section 16,

whichever is the less.

Explanation.—In this sub-section,—

(*a*) "appropriate agricultural income-tax" means such proportion of the agricultural income-tax as the amount of dividend which has not been increased under sub-section (2) of section 16 bears to the total profits of the company assessed to agricultural income-tax ; and

(*b*) "appropriate Indian income-tax" means such proportion of the income-tax payable by the shareholder under this Act as the amount of dividend which has not been increased under sub-section (2) of section 16 bears to the total income of the shareholder.]

49C. Relief granted to a company to be deemed relief granted to shareholder.—[12][(1) Where any dividend has been paid, credited or distributed or is deemed to have been paid, credited or distributed to a shareholder of a company which has obtained the relief referred to in section 49 or granted under section 49A or under the India and Burma (Income-tax Relief) Order, 1936, the shareholder shall be deemed in respect of such dividend himself to have obtained such relief at the rate at which such relief has been granted in respect of income-tax only to the company for the financial year preceding the year in which the dividend was paid, credited or distributed or is deemed to have been paid, credited or distributed.]

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[7] Substituted for "British India" by the Adaptation of Laws Order, 1950.

[8] Substituted for "such person shall be deemed" by s. 8 of the Indian Finance Act, 1948 (20 of 1948).

[9] These words were substituted for "at the rate applicable to the total income of the company for the financial year in which the dividend has been paid, credited or distributed or is deemed to have been paid, credited or distributed on so much of the dividend as bears to the whole the same proportion as the amount of income on which the company is liable to pay income-tax bears to the whole income of the company," by s. 22 of the Finance Act, 1956, and shall be deemed always to have been in the Act.

[10] Inserted by s. 23 of the Indian I. T. (Amendment) Act, 1953 (25 of 1953), with effect from the 1st April, 1952.

[11] "Other than the Government of Jammu and Kashmir" omitted by s. 2 and Sch. of the Taxation Laws (Extension to Jammu and Kashmir) Act, 1954 (41 of 1954).

[12] Substituted by s. 26 of the Indian I. T. (Amendment) Act, 1941 (23 of 1941).

Div. 1 Ss. 49C-49D

(2) If the rate at which a shareholder is deemed under sub-section (1) to have obtained relief exceeds the rate at which he would have been entitled to relief had such relief been given direct to him by or under the said sections or Order, any excess shall be recovered from him either as an addition to the tax payable by him on any assessment made on him under section 23 or section 34 or by setting it off against any relief due to him under section 48.

[13][49D. **Relief in respect of incomes accruing or arising outside the taxable territories.**—(1) If any person who is resident in the taxable territories in any year proves that, in respect of his income which accrues or arises during that year without the taxable territories (and which is not deemed to accrue or arise in the taxable territories), he has paid in any country, with which there is no reciprocal arrangement for relief or avoidance of double taxation, income-tax, by deduction or otherwise, under the law in force in that country, he shall be entitled to the deduction from the Indian income-tax payable by him of a sum calculated on such doubly taxed income at the Indian rate of tax or the rate of tax of the said country, whichever is the lower.

(2) The Central Government may, by notification in the Official Gazette, declare that the provisions of sub-section (1) shall also apply in relation to any such income accruing or arising in the United Kingdom and chargeable under this Act for the year ending on the 31st day of March, 1950, or for the year ending on the 31st day of March, 1951, or for the year ending on the 31st day of March, 1952.

[13a][(3) If any person who is resident in the taxable territories in any year proves that in respect of his income which accrues or arises to him during that year in Pakistan he has paid in that country, by deduction or otherwise, tax payable to the Government under any law for the time being in force in that country relating to taxation of agricultural income, he shall be entitled to a deduction from the Indian income-tax payable by him—

(*a*) of the amount of the tax paid in Pakistan under any law aforesaid on such income which is liable to tax under this Act also; or

(*b*) of a sum calculated on that income at the Indian rate of tax;

whichever is less.

(4) Sub-section (3) shall apply in relation to all assessments for the years subsequent to the year ending on the 31st day of March, 1948, and, notwithstanding anything contained in section 50, a claim for refund in respect of any of the years ending on the 31st day of March of the years 1949 to 1952 inclusive, may be entertained if made before the 31st day of March, 1957.]

Explanation.—In this section,—

(*i*) the expression "Indian income-tax" means income-tax and super-tax charged in accordance with the provisions of this Act;

(*ii*) the expression "Indian rate of tax" means the rate determined by dividing the amount of Indian income-tax after deduction of any relief due under the other provisions of this Act but before deduction of any relief due under this section, by the total income;

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[13] Substituted by s. 24 of the Indian I. T. (Amendment) Act, 1953 (25 of 1953), with effect from the 1st April, 1952.

[13a] Inserted by s. 23 of the Finance Act, 1956, with effect from the 1st April, 1956.

(*iii*) the expression "rate of tax of the said country" means income-tax and super-tax actually paid in the said country in accordance with the corresponding laws of the said country after deduction of all reliefs due, but before deduction of any relief due in the said country in respect of double taxation, divided by the whole amount of the income assessed in the said country; **Div. 1 Ss. 49D-50**

(*iv*) the expression "income-tax in relation to any country" includes any excess profits tax or business profits tax charged on the profits by the Government of that country and not by the Government of any part of that country or a local authority in that country.]]

[14][[14][49E.] **Power to set off amount of refunds against tax remaining payable.**—Where under any of the provisions of this Act, a refund is found to be due to any person, the Income-tax Officer, [15][Appellate Assistant Commissioner] or Commissioner, as the case may be, may, in lieu of payment of the refund, set off the amount to be refunded, or any part of that amount against the tax, [16][interest or penalty], if any, remaining payable by the person to whom the refund is due.]

[17][[17][49F.] **Power of representative of deceased person or person disabled to make claim on his behalf.**—Where through death, incapacity, bankruptcy, liquidation or other cause, a person who would but for such cause have been entitled to a refund under any of the provisions of this Act, or to make a claim under section 48 [18][* *] or 49, is unable to receive such refund or to make such claim, his executor, administrator or other legal representative, or the trustee or receiver, as the case may be, shall be entitled to receive such refund or to make such claim for the benefit of such person or his estate.]

50. Limitation of claims for refund.—No claim to any refund of income-tax [19][or super-tax] under this Chapter shall be allowed, unless it is made within [20][four years from the last day of the financial year commencing next after the expiry of the previous year in which the income arose, accrued or was received or was deemed to have arisen, accrued or been received or was brought into [21][the taxable territories :]

Provided that where the claim is to a refund of income-tax or super-tax paid prior to the commencement of the Indian Income-tax (Amendment) Act, 1939, the claim shall not be allowed unless it is made within one year from the last day of the year in which the tax was recovered or before the last day of the financial year commencing after the expiry of the previous year as defined in clause (11) of section 2 in which the income arose on which the tax was recovered, whichever period may expire later :]

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[14] The existing section 49E was originally inserted as section 49A by s. 19 of the Indian I. T. (Second Amendment) Act, 1933 (18 of 1933), and was re-numbered by s. 59 of the Indian I. T. (Amendment) Act, 1939 (7 of 1939).

[15] Substituted for "Assistant Commissioner," *ibid.* (7 of 1939).

[16] Inserted by s. 25 of the Indian I. T. (Amendment) Act, 1953 (25 of 1953), with effect from the 1st April, 1952.

[17] The existing section 49F was originally inserted as section 49B by s. 19 of the Indian I. T. (Second Amendment) Act, 1933 (18 of 1933), and was re-numbered by s. 60 of the Indian I. T. (Amendment) Act, 1939 (7 of 1939).

[18] "Or 48A" omitted, *ibid.* (7 of 1939).

[19] Inserted by s. 61, *ibid.*

[20] Substituted for the original words, *ibid.*

[21] Substituted for "British India" by the Adaptation of Laws Order, 1950.

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[22][Provided [23][further] that a claim to refund under section 49 [23][of tax paid prior to the commencement of the Indian Income-tax (Amendment) Act, 1939], may be admitted after the period of limitation herein prescribed, when the applicant satisfies the Commissioner, or an Assistant Commissioner of Income-tax specially empowered in this behalf by the Central Board of Revenue, that he had sufficient cause for not making the claim within such period.]

50A. Appeal against refusal of refund.—*Omitted by s. 62 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939).*

CHAPTER VIII

OFFENCES AND PENALTIES

51. Failure to make payments or deliver returns or statements or allow inspection.—If a person fails without reasonable cause or excuse—

(*a*) to deduct and pay any tax as required by section 18 or under sub-section (5) of section 46 ;

(*b*) to furnish a certificate required by sub-section (9) of section 18 or by section 20 to be furnished ;

(*c*) to furnish in due time any of the returns mentioned in [24][section 19A], [25][section 20A], section 21, [1][sub-section (2) of] section 22, or section 38 ;

(*d*) to produce, or cause to be produced, on or before the date mentioned in any notice under sub-section (4) of section 22, such accounts and documents as are referred to in the notice ;

(*e*) to grant inspection or allow copies to be taken in accordance with the provisions of section 39 ;

he shall, on conviction before a Magistrate, be punishable with fine which may extend to ten rupees for every day during which the default continues.

52. False statement in declaration.—If a person makes a statement in a verification mentioned in [2][section 19A or] [3][section 20A [4][or section 21] or] section 22 [5][or sub-section (2) of section 26A] or sub-section (3) of section 30 [6][or sub-section (3) of section 33] [7][* * *], which is false, and which he either

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[22] Added by s. 8 of the Indian I. T. (Second Amendment) Act, 1930 (22 of 1930).

[23] Inserted by s. 61 of the Indian I. T. (Amendment) Act, 1939 (7 of 1939).

[24] Inserted by s. 3 of the Indian I. T. (Amendment) Act, 1926 (24 of 1926).

[25] Inserted by s. 21 of the Indian I. T. (Second Amendment) Act, 1933 (18 of 1933).

[1] Inserted by s. 63 of the Indian I. T. (Amendment) Act, 1939 (7 of 1939).

[2] Inserted by s. 4 of the Indian I. T. (Amendment) Act, 1926 (24 of 1926).

[3] Inserted by s. 22 of the Indian I. T. (Second Amendment) Act, 1933.(18 of 1933).

[4] Inserted by s. 64 of the Indian I. T. (Amendment) Act, 1939 (7 of 1939).

[5] Inserted by s. 9 of the Indian I. T. (Amendment) Act, 1930 (21 of 1930).

[6] Substituted for "or sub-section (2) of section 32" by s. 28 of the Indian I. T. (Amendment) Act, 1941 (23 of 1941).

[7] "Or sub-section (2) of section 33A or sub-section (3) of section 50A" omitted by s. 64 of the Indian I. T. (Amendment) Act, 1939 (7 of 1939).

knows or believes to be false, or does not believe to be true, he shall [8][be punishable, on conviction before a Magistrate, with simple imprisonment which may extend to six months, or with fine which may extend to one thousand rupees, or with both.]

53. Prosecution to be at instance of Inspecting Assistant Commissioner.—(1) A person shall not be proceeded against for an offence under section 51 or section 52 except at the instance of the [9][Inspecting Assistant Commissioner.]

[10][(2) The Inspecting Assistant Commissioner may either before or after the institution of proceedings compound any such offence.]

54. Disclosure of information by a public servant.—(1) All particulars contained in any statement made, return furnished or accounts or documents produced under the provisions of this Act, or in any evidence given, or affidavit or deposition made, in the course of any proceedings under this Act other than proceedings under this Chapter, or in any record of any assessment proceeding, or any proceeding relating to the recovery of a demand, prepared for the purposes of this Act, shall be treated as confidential, and notwithstanding anything contained in the Indian Evidence Act, 1872 (I of 1872), no Court shall, save as provided in this Act, be entitled to require any public servant to produce before it any such return, accounts, documents or record or any part of any such record, or to give evidence before it in respect thereof.

(2) If a public servant discloses any particulars contained in any such statement, return, accounts, documents, evidence, affidavit, deposition or record, he shall be punishable with imprisonment which may extend to six months, and shall also be liable to fine.

[11][* *] [11][(3)] Nothing in this section shall apply to the disclosure—

(*a*) of any such particulars for the purposes of a prosecution under [12][* *] the Indian Penal Code (XLV of 1860) in respect of any such statement, return, accounts, documents, evidence, affidavit or deposition, or for the purposes of a prosecution under this Act, or

[13][(*b*) of any such particulars to any person acting in the execution of this Act or of the Taxation on Income (Investigation Commission) Act, 1947 (XXX of 1947), where it is necessary or desirable to disclose the same to him for the purposes of either this Act or the Taxation on Income (Investigation Commission) Act, 1947, or]

(*c*) of any such particulars occasioned by the lawful employment under this Act of any process for the service of any notice or the recovery of any demand, or

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[8] Substituted for "be deemed to have committed the offence described in section 177 of the Indian Penal Code," *ibid.*

[9] Substituted for "Assistant Commissioner" by s. 65, *ibid.*

[10] Substituted, *ibid.*

[11] The words "Provided that" were omitted and the proviso numbered as sub-section (3) by s. 66, *ibid.*

[12] "Section 193 of" omitted by s. 9 of the Indian I. T. (Second Amendment) Act, 1930 (22 of 1930).

[13] Substituted by s. 26 of the Indian I. T. (Amendment) Act, 1953 (25 of 1953), with effect from the 1st April, 1952.

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[14][(*d*) of any such particulars to a Civil Court in any suit [15][or proceeding] to which Government [16][or any Income-tax authority] is a party, which relates to any matter arising out of any proceeding under this Act [16][or under any other law for the time being in force authorising any Income-tax authority to exercise any powers thereunder], or

[17][(*e*) of any such particulars to the Comptroller and Auditor-General of India for the purpose of enabling him to discharge his functions under the Constitution, or]

(*f*) of any such particulars to any officer appointed by the [18][Comptroller and Auditor-General of India] or the Central Board of Revenue to audit income-tax receipts or refunds, or

(*g*) of any such particulars, relevant to any inquiry into the conduct of an official of the Income-tax Department, to any persons appointed Commissioners under the Public Servants (Inquiries) Act, 1850 (XXXVII of 1850), or to an Officer otherwise appointed to hold such inquiry, or to a Public Service Commission established under [19][the Constitution] when exercising its functions in relation to any matter arising out of any such inquiry, or]

[20][(*gg*) of any such particulars, relevant to any inquiry into a charge of misconduct in connection with income-tax proceedings against a lawyer or [21][chartered] accountant, to the authority referred to in sub-section (3) of section 61, when exercising the functions referred to in that sub-section,] [22][or]

[23][23][(*h*)] of any such particulars occasioned by the lawful exercise by a public servant of his powers under the Indian Stamp Act, 1899 (II of 1899), to impound an insufficiently stamped document, or]

[24][(*i*) of such facts, to an authorised officer of the United Kingdom, [25][* * *] or of any part of His Majesty's Dominions which has entered into an agreement with [1][India] for the granting of double taxation relief, as may be necessary for the purpose of enabling such relief or a refund under section 49 [2][or section 49AA] of this Act to be given, or

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[14] Clauses (*d*) to (*g*) were inserted by s. 66 of the Indian I. T. (Amendment) Act, 1939 (7 of 1939).

[15] Inserted by s. 18 of the Taxation Laws (Extension to Merged States and Amendment) Act, 1949 (67 of 1949).

[16] Inserted by s. 26 of the Indian I. T. (Amendment) Act, 1953 (25 of 1953), with effect from the 1st April, 1952.

[17] Substituted by the Adaptation of Laws Order, 1950.

[18] Substituted for "Auditor-General of India," *ibid.*

[19] Substituted for "the Government of India Act, 1935," *ibid.*

[20] Inserted by s. 4 of the I. T. Law Amendment Act, 1940 (12 of 1940).

[21] Substituted for "registered" by s. 26 of the Indian I. T. (Amendment) Act, 1953 (25 of 1953), with effect from the 1st April, 1952.

[22] Inserted by s. 3 and Second Schedule of the Repealing and Amending Act, 1942 (25 of 1942).

[23] The original clause (*cc*) was inserted by s. 23 of the Indian I. T. (Second Amendment) Act, 1933 (18 of 1933), and was re-lettered as clause (*h*) by s. 66 of the Indian I. T. (Amendment) Act, 1939 (7 of 1939).

[24] Clauses (*i*) to (*m*) were substituted for the original clause (*d*), *ibid.* (7 of 1939).

[25] "Or of any Indian State" omitted by the Adaptation of Laws Order, 1950.

[1] Substituted for "British India," *ibid.*

[2] Inserted by the India (Adaptation of Income-tax, Profits Tax and Revenue Recovery Acts) Order, 1947 (G.G.O. 31).

(*j*) of such facts, to an officer of a [3][State] Government, as may be necessary for the purpose of enabling that Government to levy or realise any tax imposed by it [4][* * *], or

(*k*) of such facts, to any authority exercising powers under the Sea Customs Act, 1878 (VIII of 1878), or any [5][Central Act] imposing a duty of excise as may be necessary for enabling it duly to exercise such powers, or

(*l*) of such facts, [6][to any person charged by law with the duty of inquiring into the qualifications of electors], as may be necessary to establish whether a person is or is not entitled to be entered on an electoral roll, or

(*m*) [7][of] so much of such particulars, to the appropriate authority, as may be necessary to establish whether a person has or has not been assessed to income-tax in any particular year or years, where under the provisions of any law for the time being in force such fact is required to be established,] [8][or]

[8][(*n*) of such particulars to the Reserve Bank of India as are required by that Bank to enable it to compile financial statistics of international investments and balance of payments, or

(*o*) of such information as may be required by any officer or department of the Central Government or of a [9][State] Government for the purpose of investigation into the conduct and affairs of any public servant,]

[10][(*p*) of any such particulars to the Custodian of Evacuee Property appointed under the Administration of Evacuee Property Act, 1950, for the purpose of enabling him to discharge the duties imposed upon him by or under the said Act.]

[11][* * * [11][(4)] Nothing in this section shall apply to the production by a public servant before a Court of any document, declaration or affidavit filed, or the record of any statement or deposition made in a proceeding under [12][section 25A or] section 26A, or to the giving of evidence by a public servant in respect thereof.]

[13][* * *] [13][(5)] No prosecution shall be instituted under this section except with the previous sanction of the Commissioner.

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[3] Substituted for "Provincial" by the Adaptation of Laws Order, 1950.

[4] "On agricultural income" omitted by s. 18 of the Taxation Laws (Extension to Merged States and Amendment) Act, 1949 (67 of 1949).

[5] Substituted for "Act of the Central Legislature" by the Adaptation of Laws Order, 1950.

[6] Substituted for "to a Returning Officer" by s. 29 of the Indian I. T. (Amendment) Act, 1941 (23 of 1941).

[7] Inserted by s. 4 of the I. T. Law Amendment Act, 1940 (12 of 1940).

[8] Inserted by s. 3 of the Indian I. T. (Amendment) Act, 1948 (55 of 1948).

[9] Substituted for "Provincial" by the Adaptation of Laws Order, 1950.

[10] Inserted by s. 57 of the Administration of Evacuee Property Act, 1950 (31 of 1950), and is to have effect during the continuance of the Act.

[11] From the original proviso which was inserted by s. 10 of the Indian I. T. (Amendment) Act, 1930 (21 of 1930), the words "Provided further that" were omitted and the proviso numbered as sub-section (4) by s. 66 of the Indian I. T. (Amendment) Act, 1939 (7 of 1939).

[12] Inserted, *ibid.* (7 of 1939).

[13] The words "Provided further that" were omitted and the proviso numbered as sub-section (5), *ibid.*

CHAPTER IX

SUPER-TAX

Div. 1 Ss. 55-56

55. Charge of super-tax.—In addition to the income-tax charged for any year, there shall be charged, levied and paid for that year in respect of the total income of the previous year of any [14][individual, Hindu undivided family, [15][company, local authority, unregistered firm or other association of persons], not being a registered firm], [16][or the partners of the firm or members of the association individually,] an additional duty of income-tax (in this Act referred to as super-tax) at the rate or rates laid down for that year by [17][a Central Act]:

[16][Provided that where under the provisions of clause (*b*) of sub-section (5) of section 23 an unregistered firm has been assessed in the manner applicable to a registered firm, super-tax shall be payable by each partner of the firm individually on his share in the income, profits and gains of the firm and not by the firm itself:]

Provided [17*a*][further] that, where the profits and gains of an unregistered firm [17*a*][or other association of persons not being a company] have been assessed to super-tax, super-tax shall not be payable by [18][a partner of the firm or a member of the association, as the case may be], in respect of the amount of such profits and gains which is proportionate to his share.

56. Total income for purposes of super-tax.—[19][Except in cases to which [20][section 15A applies or to which] by clause (*a*) of the proviso to sub-sections (3) and (4) of section 25 those sub-sections do not apply and] subject to the provisions of this Chapter, the total income of any [21][individual, Hindu undivided family, company, [22][local authority], unregistered firm or other [23][association of persons]] shall, for the purposes of super-tax, be the total income as assessed for the purposes of income-tax, and where an assessment of total income has become final and conclusive for the purposes of income-tax for any year, the assessment shall also be final and conclusive for the purposes of super-tax for the same year.

[24][* * * * *]

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[14] Substituted for "individual, unregistered firm, Hindu undivided family or company", with effect from 1st April, 1923, by s. 7 read with s. 11 of the Indian I. T. (Amendment) Act, 1924 (11 of 1924).

[15] Substituted for "company, unregistered firm or other association of individuals" by s. 67 of the Indian I. T. (Amendment) Act, 1939 (7 of 1939).

[16] Inserted, *ibid.*

[17] Substituted for "Act of the Central Legislature" by the Adaptation of Laws Order, 1950.

[17*a*] Inserted by s. 67 of the Indian I. T. (Amendment) Act, 1939 (7 of 1939).

[18] Substituted for "an individual having a share in the firm", *ibid.*

[19] Inserted by s. 13 of the Indian I. T. (Amendment) Act, 1944 (11 of 1944).

[20] Inserted by s. 6 of Ordinance No. 9 of 1945.

[21] Substituted for "individual, unregistered firm, Hindu undivided family or company" by s. 8 read with s. 11 of the Indian I. T. (Amendment) Act, 1924 (11 of 1924), with effect from 1st April, 1923.

[22] Inserted by s. 68 of the Indian I. T. (Amendment) Act, 1939 (7 of 1939).

[23] Substituted for "association of individuals," *ibid.*

[24] The proviso was omitted by s. 10 of the Indian I. T. (Amendment) Act, 1928 (3 of 1928).

[25][56A. **Exemption from super-tax of certain dividends.**—(1) No super-tax shall be payable by a company on such part of its total income as consists of dividends received from an Indian company formed and registered after the 31st day of March, 1952, where— **Div. 1 Ss. 56A-57**

(*i*) the Central Government is satisfied that the Indian company is wholly or mainly engaged in an industry for the manufacture or production of any one or more of the following, namely :—

(1) Coal, including coke and other derivatives ;
(2) Iron and steel ;
(3) Motor and aviation fuel, kerosene, crude oils and synthetic oils (not being oil exploration) ;
(4) Heavy chemicals including fertilizers ;
(5) Heavy machinery used in industry including ball and roller bearing and gear wheels and parts thereof, boilers and steam generating equipment ;
(6) Machinery and equipment for the generation, transmission and distribution of electric energy ;
(7) Non-ferrous metals including alloys ;
(8) Paper including newsprint and paper board ;
(9) Internal combustion engines ;
(10) Power-driven pumps ;
[25a][(11) Automobiles ;
(12) Tractors ;
(13) Cement ;
(14) Electric motors ;
(15) Locomotives ;
(16) Rolling stock ;
(17) Machine tools ;
(18) Agricultural implements ;
(19) Ferro-manganese ;
(20) Dye-stuffs ;]

as specified in the First Schedule to the Industries (Development and Regulation) Act, 1951 (No. LXV of 1951), and

(*ii*) the income of the Indian company would have been exempt under the operation of section 15C if the provisions of that section had been applicable thereto.

(2) The exemption specified in sub-section (1) shall apply also to dividends payable to a company in respect of any fresh capital raised by an Indian company after the 28th day of February, 1953, by public subscription for the purpose of increasing the production of, or starting a separate unit of, any one or more of the items specified in clause (*i*) of sub-section (1).]

57. Non-resident partners and shareholders.—*Omitted by s.* 69 *of the Indian Income-tax (Amendment) Act,* 1939 (7 *of* 1939).

[25] Inserted by s. 3 of the Finance Act, 1953 (14 of 1953), with effect from the 1st April, 1953.
[25a] Inserted by s. 17 of the Finance Act, 1955, with effect from the 1st April, 1955.

Div. 1 Ss. 58-58A

58. Application of Act to super-tax.—(1) All the provisions of this Act [1][relating to the charge, assessment, collection and recovery of income-tax except those contained in] section 3, [2][the first proviso] to sub-section (1) of section 7, [3][the second and third provisos to section 8], [4][clauses (*a*) and (*b*) of sub-section (2) of section 14], and sections 15, [5][15A], [6][*] [7][*] 19, [8][and 20 and the first proviso to sub-section (1) of section 41 and section] [9]* [10][[11]* 58F and [12][sub-section (2)] of section 58G] shall apply, so far as may be, to the charge, assessment, collection and recovery of super-tax.

[13][* * * * * * * *]

(2) Save as provided in [14][[15][sub-sections (2), (2A), (2B), [15a][(3A), (3B), (3C) and (3D)]] of section 18], [16][* *] [17][and section 58H] super-tax shall be payable by the assessee direct.

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[18][CHAPTER IX-A

SPECIAL PROVISIONS RELATING TO CERTAIN CLASSES OF PROVIDENT FUNDS

58A. Definitions.—In this Chapter, unless there is anything repugnant in the subject or context,—

(*a*) a "recognised provident fund" means a provident fund which has been and continues to be recognised by the Commissioner, in accordance with the provisions of this Chapter;

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[1] Substituted for "except" by s. 25 of the Indian I. T. (Second Amendment) Act, 1933 (18 of 1933).

[2] Substituted for "the second proviso" by s. 24 of the Finance Act, 1956, with effect from the 1st April, 1956.

[3] Substituted for "the proviso to section 8" by s. 25 of the Indian I. T. (Second Amendment) Act, 1933 (18 of 1933).

[4] Substituted for "sub-section (2) of section 14" by s. 30 of the Indian I. T. (Amendment) Act, 1941 (23 of 1941).

[5] Inserted by s. 7 of Ordinance No. 9 of 1945.

[6] "17" omitted by s. 70 of the Indian I. T. (Amendment) Act, 1939 (7 of 1939).

[7] "18" omitted by s. 25 of the Indian I. T. (Second Amendment) Act, 1933 (18 of 1933).

[8] Substituted for "20" by s. 70 of the Indian I. T. (Amendment) Act, 1939 (7 of 1939).

[9] "21" omitted, *ibid.*

[10] Substituted for "and 48" by s. 25 of the Indian I. T. (Second Amendment) Act, 1933 (18 of 1933).

[11] "48" omitted by s. 70 of the Indian I. T. (Amendment) Act, 1939 (7 of 1939).

[12] Substituted for "sub-sections (2) and (3)," *ibid.*

[13] The proviso was omitted by s. 25 of the Indian I. T. (Second Amendment) Act, 1933 (18 of 1933).

[14] Inserted, *ibid.*

[15] Substituted for "sub-sections (3A), (3B), (3C) and (3D)" by s. 70 of the Indian I. T. (Amendment) Act, 1939 (7 of 1939).

[15a] Substituted for "(3B), (3C), (3D) and (3E)" by s. 24 of the Finance Act, 1956, with effect from the 1st April, 1956.

[16] "Section 57" omitted by s. 70 of the Indian I. T. (Amendment) Act, 1939 (7 of 1939).

[17] Inserted by s. 4 of the Indian I. T. (Provident Funds Relief) Act, 1929 (12 of 1929).

[18] Inserted by s. 5, *ibid.*

(*b*) an "employer" means—

(*i*) a Hindu undivided family, company, firm or other association of [19]* * persons, or

(*ii*) an individual engaged in a business, profession or vocation whereof the profits and gains are assessable to income-tax under section 10, [20]* * maintaining a provident fund for the benefit of his or its employees;

(*c*) an "employee" means an employee participating in a provident fund, but does not include a personal or domestic servant;

(*d*) a "contribution" means any sum credited by or on behalf of any employee out of his salary, or by an employer out of his own moneys, to the individual account of an employee, but does not include any sum credited as interest;

(*e*) the "balance to the credit" of an employee means the total amount to the credit of his individual account in a provident fund at any time;

(*f*) the "annual accretion" to the balance to the credit of an employee means the increase to such balance in any year, arising from contributions and interest;

(*g*) the "accumulated balance due" to an employee means the balance to his credit, or such portion thereof as may be claimable by him under the regulations of the fund, on the day he ceases to be an employee of the employer maintaining the fund; and

(*h*) the "regulations of a fund" means the special body of regulations governing the constitution and administration of a particular provident fund.

58B. The according and withdrawal of recognition.—(1) The Commissioner of Income-tax may accord recognition to any provident fund which, in his opinion, satisfies the conditions prescribed in section 58C and the rules made thereunder, and may, at any time, withdraw such recognition if, in his opinion, the provident fund contravenes any of those conditions.

[21]* * * * * * *

[21][(2)] An order according recognition shall take effect on such date as the Commissioner may fix in accordance with any rules the Central Board of Revenue may make in this behalf, such date not being later than the last day of the financial year in which the order is made.

[21][(3)] An order withdrawing recognition shall take effect from the day on which it is made.

[22][(3A) An order according recognition to a provident fund shall not, unless the Commissioner otherwise directs, be affected by the fact that the fund is subsequently amalgamated with another provident fund on the occurrence of an amalgamation of the undertakings in connection with which the two funds are maintained, or that it subsequently absorbs the whole or a part of another provident fund belonging to an undertaking which is wholly or in part transferred to or merged in the undertaking of the employer maintaining the first-mentioned fund.]

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[19] "Individuals or" omitted by s. 71 of the Indian I. T. (Amendment) Act, 1939 (7 of 1939).

[20] "Or section 11" omitted, *ibid.*

[21] Sub-section (2) was omitted and sub-sections (3), (4) and (5) were renumbered as (2), (3) and (4) respectively by s. 72, *ibid.*

[22] Inserted by s. 9 of the Indian I. T. (Amendment) Act, 1940 (40 of 1940).

Div. 1 Ss. 58B-58C

[23][(4)] An employer objecting to an order of the Commissioner refusing to recognise [24][or an order withdrawing recognition from] a provident fund may appeal, within sixty days of such order, to the Central Board of Revenue.

The appeal shall be in the form and shall be verified in the manner prescribed by the Central Board of Revenue.

58C. Conditions to be satisfied by a recognised provident fund.—(1) In order that a provident fund may receive and retain recognition, it shall satisfy the conditions set out below and any other conditions which the [25][Central Government] may, by rule, prescribe—

(*a*) All employees shall be employed in India, or shall be employed by an employer whose principal place of business is in [1][the taxable territories]:

[2][Provided that the Commissioner may, if he thinks fit and subject to such conditions, if any, as he thinks proper to attach to the recognition, accord recognition to a fund maintained by an employer whose principal place of business is not in [1][the taxable territories] notwithstanding that a proportion not exceeding ten per cent of the employees is employed outside India.]

(*b*) The contributions of an employee in any year shall be a definite proportion of his salary for that year, and shall be deducted by the employer from the employee's salary in that proportion, at each periodical payment of such salary in that year, and credited to the employee's individual account in the fund:

[3][Provided that an employee who retains his employment while serving in [4][the Armed Forces of the Union] or when taken into or employed in the national service under the National Service (European British Subjects) Act, 1940, or the National Service (Technical Personnel) Ordinance, 1940, may, notwithstanding that he receives from the employer no salary or a salary less than he would have received had he not entered [4][the Armed Forces of the Union,] or been so taken into or employed in the national service, contribute to the fund during his service in [4][the Armed Forces of the Union] or while so taken into or employed in the national service a sum not exceeding the amount he would have contributed had he continued to receive from the employer the same salary (including increments, if any) as he would have received had he not entered [4][the Armed Forces of the Union] or been taken into or employed in the national service.]

(*c*) Subject to the provisions of section 58D, the contributions of an employer to the individual account of an employee in any year shall not exceed the amount of the contributions of the employee in that year, and shall be credited to the employee's individual account at intervals not exceeding one year.

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[23] Sub-section (5) was renumbered (4) by s. 72 of the Indian I. T. (Amendment) Act, 1939 (7 of 1939).

[24] Inserted by s. 72 of the Indian I. T. (Amendment) Act, 1939 (7 of 1939).

[25] Substituted for "Governor General in Council" by the Government of India (Adaptation of Indian Laws) Order, 1937.

[1] Substituted for "British India" by the Adaptation of Laws Order, 1950.

[2] Added by s. 10 of the Indian I. T. (Amendment) Act, 1940 (40 of 1940).

[3] Added, *ibid.*, with effect from the 3rd September, 1939.

[4] Substituted for "His Majesty's Forces" by the Adaptation of Laws Order, 1950.

(*d*) The fund shall consist of contributions as above specified [5][and of donations, if any, received [6][by the trustees]], of accumulations thereof, and of interest (simple and compound), credited in respect of such [7][contributions, donations and accumulations], and of securities purchased therewith, [8][and of any capital gains arising from the sale, exchange or transfer of capital assets of the fund], and of no other sums :

[9][Provided that the fund may consist also of the accumulated balance due to an employee who has ceased to be an employee, and of interest (simple and compound) in respect thereof where such balance is retained in the fund in accordance with the provisions of clause (*g*).]

(*e*) The fund shall be vested in two or more trustees [10][or in the Official Trustee] under a trust which shall not be revocable save with the consent of all the beneficiaries.

(*f*) The employer shall not be entitled to recover any sum whatsoever from the fund, save in cases where the employee is dismissed for misconduct or voluntarily leaves his employment otherwise than on account of ill-health or other unavoidable cause before the expiration of the term of service specified in this behalf in the regulations of the fund.

In such cases the recoveries made by the employer shall be limited to the contributions made by him to the individual account of the employee, and to interest (simple and compound) credited in respect of such contributions and accumulations thereof, in accordance with the regulations of the fund.

(*g*) The accumulated balance due to an employee shall be payable on the day he ceases to be an employee of the employer maintaining the fund, [9][unless at the request of the employee made in writing, the trustees of the fund consent to retain the whole or any part of the accumulated balance due to the employee in the fund to be drawn by him at any time on demand].

(*h*) Save as provided in clause (*g*), or in accordance with such conditions and restrictions as the [11][Central Government] may, by rules, prescribe, no portion of the balance to the credit of an employee shall be payable to him.

(2) Where there is a repugnance between any regulation of a recognised provident fund and any provision of this Chapter or of the rules made thereunder, the regulation shall, to the extent of the repugnance, be of no effect.

The Commissioner may, at any time, require that such repugnance shall be removed from the regulations of the fund.

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[5] Inserted by s. 10 of the Indian I. T. (Amendment) Act, 1940 (40 of 1940).

[6] Substituted for "from the trustees" by s. 31 of the Indian I. T. (Amendment) Act, 1941 (23 of 1941).

[7] Substituted for "contributions and accumulations" by s. 10 of the Indian I. T. (Amendment) Act, 1940 (40 of 1940).

[8] Inserted by s. 14 of the I. T. and E. P. T. (Amendment) Act, 1947 (22 of 1947).

[9] Added by s. 27 of the Indian I. T. (Amendment) Act, 1953 (25 of 1953), with effect from the 1st April, 1952.

[10] Inserted by s. 2 of the Indian I. T. (Amendment) Act, 1931 (4 of 1931).

[11] Substituted for "Governor General in Council" by the Government of India (Adaptation of Indian Laws) Order, 1937.

Div. 1 Ss. 58D-58G

58D. Power to relax restrictions of employer's contributions in certain cases.—Subject to any rules which the [12][Central Government] may make in this behalf, the Commissioner may, in respect of any particular fund, relax the provisions of condition (*c*) of sub-section (1) of section 58C—

(*a*) so as to permit the payment of larger contributions by an employer to the individual accounts of employees whose salary does not exceed five hundred rupees per mensem ; and

(*b*) so as to permit the crediting by employers to the individual accounts of employees of periodical bonuses or other contributions of a contingent nature, where the calculation and payment of such bonuses or other contributions is provided for on definite principles by the regulations of the fund.

[13][**58E. Annual contributions of employers and interest when deemed to be income received.**—That portion of the annual accretion in any year to the balance at the credit of an employee participating in a recognised provident fund as consists of—

(*a*) contributions made by the employer in excess of ten per cent. of the salary of the employee, and

(*b*) interest credited on the balance to the credit of the employee in so far as it exceeds one-third of the salary of the employee or is allowed at a rate exceeding the rate fixed by the Central Government in this behalf by notification in the Official Gazette,

shall be deemed to have been received by him in that year and shall be included in his total income for that year, and shall be liable to income-tax and super-tax.]

[14][**58F. Exemption of employees' contributions from income-tax.**—An employee shall not be liable to pay income-tax on his own contributions to his individual account in a recognised provident fund in so far as the aggregate of such contributions in any year does not exceed one-fifth of his salary in that year or eight thousand rupees, whichever is less.]

58G. Exemption of accumulated balance from income-tax and super-tax.—[15][(1) Where the accumulated balance due to an employee participating in a recognised provident fund becomes payable, such accumulated balance shall be exempt from payment of super-tax except to the extent of an amount equal to the aggregate of the amounts of super-tax on annual accretions that would have been payable under section 58E up to the first day of April, 1933, if the Indian Income-tax (Second Amendment) Act, 1933 (XVIII of 1933), had come into force on the 15th March, 1930.]

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[12] Substituted for "Governor General in Council" by the Government of India (Adaptation of Indian Laws) Order, 1937.

[13] Substituted for the original section by s. 9 of the Finance (No. 2) Act, 1957. The amendment, for the purposes of making any deduction of income-tax under sub-section (2) or (2B) of section 18 shall have effect on and from the 1st April, 1957, and for other purposes shall have effect on and from the 1st April, 1958.

[14] Substituted for the original section by s. 10, *ibid.* The amendment, for the purposes of making any deduction of income-tax under sub-section (2) or (2B) of section 18 shall have effect on and from the 1st April, 1957, and for other purposes shall have effect on and from the 1st April, 1958.

[15] Inserted by s. 26 of the Indian I. T. (Second Amendment) Act, 1933 (18 of 1933).

[16][(2)] Where an employee participating in a recognised provident fund has rendered continuous service with his employer for a period of not less than five years, and the accumulated balance due to him becomes payable, such accumulated balance shall be exempt from payment of income-tax [17][* * *] and shall be excluded from the computation of his total income :

Provided that the Commissioner of Income-tax may allow such exemption and exclusion where the employee has rendered continuous service with the employer for a period of less than five years, if, in his opinion, the service has been terminated by reason of the employee's ill-health, or by the contraction or discontinuance of the employer's business, or other cause beyond the control of the employee.

[18][(3)] Where exemption from payment of income-tax is not allowed under the provisions of [19][sub-section (2)], the Income-tax Officer shall calculate the total of the various sums of income-tax [20][and super-tax which would have been payable by the employee in respect of his total income for each of the years concerned if the fund had not been a recognised provident fund, and the amount by which such total exceeds the total of all sums paid by or on behalf of such employee by way of tax for such years shall be payable by the employee in addition to any other income-tax and super-tax] for which he may be liable for the year in which the accumulated balance due to him becomes payable.

58H. Deduction at source of income-tax payable on accumulated balances due.—The trustees of a recognised provident fund, or other person authorised by the regulations of the fund to make payment of accumulated balances due to employees, shall, at the time an accumulated balance due to an employee is paid, deduct therefrom any income-tax payable under [21][sub-section (3)] of section 58G and any income-tax and super-tax payable on an employee's total income as determined under sub-section (3) of section 58J, and sub-sections (4) to (9) of section 18 shall apply as if the sum to be deducted were income-tax payable under the head "Salaries".

58I. Accounts of recognised provident funds.—(1) The accounts of a recognised provident fund shall be maintained by the trustees of the fund and shall be in such form and for such periods, and shall contain such particulars as the Central Board of Revenue may prescribe.

(2) The accounts shall be open to inspection at all reasonable times by Income-tax authorities, and the trustees shall furnish to the Income-tax Officer such abstracts thereof as the Central Board of Revenue may prescribe.

58J. Treatment of balances in newly recognised provident funds.—(1) Where recognition is accorded to a provident fund with existing balances, an account shall be made of the fund up to the day before the day on which the recognition takes effect, showing the balance to the credit of each employee on

[16] The original sub-section (1) was re-numbered (2) by s. 26 of the Indian I. T. (Second Amendment) Act, 1933 (18 of 1933).

[17] "And super-tax" omitted, *ibid.*

[18] The original sub-section (2) was re-numbered (3), *ibid.*

[19] Substituted for "sub-section (1)," *ibid.*

[20] Substituted for the original words by s. 74 of the Indian I. T. (Amendment) Act, 1939 (7 of 1939).

[21] Substituted for "sub-section (2)" by s. 2 and Sch. 1 of the Repealing and Amending Act, 1934 (24 of 1934).

Div. 1 Ss. 58J-58K

such day, and containing such further particulars as the Central Board of Revenue may prescribe.

(2) The account shall also show in respect of the balance to the credit of each employee the amount thereof which is to be transferred to that employee's account in the recognised provident fund, and such amount (hereinafter called his transferred balance) shall be shown as the balance to his credit in the recognised provident fund on the date on which the recognition of the fund takes effect, and sub-sections (3) and (4) shall apply thereto.

Any portion of the balance to the credit of an employee in the existing fund which is not transferred to the recognised fund shall be excluded from the accounts of the recognised fund and shall be liable to income-tax and super-tax in accordance with the provisions of this Act other than this Chapter.

(3) Subject to such rules as the Central Board of Revenue may make in this behalf, the Income-tax Officer shall make a calculation of the aggregate of all sums comprised in a transferred balance which would have been liable to income-tax if this Chapter had been in force from the date of the institution of the fund, without regard to any tax which may have been paid on any such sum, and such aggregate (if any) shall be deemed to be income received by the employee in the year in which the recognition of the fund takes effect, and shall be included in the employee's total income for that year, and, for the purposes of assessment, the remainder of the transferred balance shall be disregarded, but no other exemption or relief, by way of refund or otherwise, shall be granted in respect of any sum comprised in such transferred balance :

Provided that, in cases of serious accounting difficulty, the Commissioner shall have power, subject to the said rules, to make a summary calculation of such aggregate.

(4) Notwithstanding anything contained in condition (*h*) of sub-section (1) of section 58C, an employee, in order to enable him to pay the amount of tax assessed on his total income as determined under sub-section (3), shall be entitled to withdraw from the balance to his credit in the recognised provident fund a sum not exceeding the difference between such amount and the amount to which he would have been assessed if the transferred balance had not been included in his total income.

(5) Nothing in this section shall affect the rights of the persons administering an unrecognised provident fund or dealing with it, or with the balance to the credit of any individual employee, before recognition is accorded, in any manner which may be lawful.

58K. Treatment of fund transferred by employer to trustee.—(1) Where an employer who maintains a provident fund (whether recognised or not) for the benefit of his employees and has not transferred the fund or any portion of it, transfers such fund or portion to trustees in trust for the employees participating in the fund, the amount so transferred shall be deemed to be of the nature of capital expenditure.

(2) When an employee participating in such fund is paid the accumulated balance due to him therefrom, any portion of such balance as represents his share in the amount so transferred to the trustee (without addition of interest, and

exclusive of the employee's contributions and interest thereon) shall, [22][if the employer has made effective arrangements to secure that tax shall be deducted at source from the amount of such share when paid to the employee,] be deemed to be an expenditure by the employer within the meaning of [23][clause (*xv*)] of sub-section (2) of section 10, incurred in the year in which the accumulated balance due to the employee is paid.

58L. Provisions relating to rules.—(1) All rules made under this Chapter shall be subject to the provisions of sub-sections (4) and (5) of section 59.

(2) In addition to any power conferred by this Chapter, the [24][Central Government] may make rules—

(*a*) prescribing the statements and other information to be submitted with an application for recognition;

(*b*) limiting the contributions to a recognised provident fund by employees of a company who are shareholders in the company;

(*c*) providing for the assessment by way of penalty of any consideration received by an employee for an assignment of, or creation of a charge upon, his beneficial interest in a recognised provident fund;

(*d*) determining the extent to and the manner in which exemption from payment of income-tax and super-tax may be granted in respect of contributions and interest credited to the individual accounts of employees in a provident fund from which recognition has been withdrawn; and

(*e*) generally, to carry out the purposes of this Chapter and to secure such further control over the recognition of provident funds and the administration of recognised provident funds as [25][it] may deem requisite.

58M. Application of this Chapter.—This Chapter shall not apply to any provident fund to which the Provident Funds Act, 1925 (XIX of 1925), applies.

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[1][CHAPTER IX-B

SPECIAL PROVISIONS RELATING TO CERTAIN CLASSES OF SUPERANNUATION FUNDS

58N. Definitions.—In this Chapter unless there is anything repugnant in the subject or context,—

(*a*) "approved superannuation fund" means a superannuation fund or any part of a superannuation fund which has been and continues to be approved by the Central Board of Revenue in accordance with the provisions of this Chapter;

(*b*) "employer", "employee" and "contribution" have, in relation to superannuation funds, the meanings assigned to those expressions in section 58A in relation to provident funds;

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[22] Inserted by s. 75 of the Indian I. T. (Amendment) Act, 1939 (7 of 1939).

[23] Substituted for "clause (*xii*)" by s. 26 of the Finance Act, 1956, with effect from the 1st April, 1956.

[24] Substituted for "Governor General in Council" by the Government of India (Adaptation of Indian Laws) Order, 1937.

[25] Substituted for "he," *ibid.*

[1] Inserted by s. 76 of the Indian I. T. (Amendment) Act, 1939 (7 of 1939).

Div. 1 Ss. 58N-58Q

(*c*) "ordinary annual contribution" means an annual contribution of a fixed amount or an annual contribution computed on some definite basis by reference to the earnings, the contributions or the number of members of the fund.

58O. Approval and withdrawal of approval.—(1) The Central Board of Revenue may accord approval to any superannuation fund or any part of a superannuation fund which in its opinion complies with the requirements of section 58P, and may at any time withdraw such approval, if in its opinion the circumstances of the fund or part cease to warrant the continuance of the approval.

(2) The Central Board of Revenue shall communicate in writing to the trustees of the fund the grant of approval with the date on which the approval is to take effect, and, where the approval is granted subject to conditions, those conditions.

(3) The Central Board of Revenue shall communicate in writing to the trustees of the fund any withdrawal of approval with the reasons for such withdrawal and the date on which the withdrawal is to take effect.

(4) The Central Board of Revenue shall neither refuse nor withdraw approval to any superannuation fund or any part of a superannuation fund unless it has given the trustees of that fund a reasonable opportunity of being heard in the matter.

58P. Conditions for approval.—In order that a superannuation fund may receive and retain approval the following conditions shall be satisfied, namely :—

(*a*) the fund shall be a fund established under an irrevocable trust in connection with a trade or undertaking carried on in [2][the taxable territories] ;

(*b*) the fund shall have for its sole purpose the provision of annuities for employees in the trade or undertaking on their retirement at or after a specified age or on their becoming incapacitated prior to such retirement, or for the widows, children or dependants of persons who are or have been such employees on the death of those persons ; and

(*c*) the employer in the trade or undertaking shall be a contributor to the fund :

Provided that the Central Board of Revenue may, if it thinks fit and subject to such conditions, if any, as it thinks proper to attach to the approval, approve a fund or any part of a fund—

(*i*) notwithstanding that the rules of the fund provide for the return in certain contingencies of contributions paid to the fund, or

(*ii*) if the main purpose of the fund is the provision of such annuities as aforesaid, notwithstanding that such provision is not its sole purpose, or

(*iii*) notwithstanding that the trade or undertaking in connection with which the fund is established is carried on only partly in [2][the taxable territories].

58Q. Application for approval.—(1) An application for approval of a superannuation fund or part of a superannuation fund for any year of assessment shall be made in writing before the end of that year by the trustees of the fund to the Income-tax Officer, and shall be accompanied by a copy of the instrument

[2] Substituted for "British India" by the Adaptation of Laws Order, 1950.

under which the fund is established and by two copies of the rules and of the accounts of the fund for the last year for which such accounts have been made up. The Central Board of Revenue may require such further information to be supplied as it thinks proper. **Div. 1 Ss. 58Q-58T**

(2) If any alteration in the rules, constitution, objects or conditions of the fund is made at any time after the date of the application for approval, the trustees of the fund shall forthwith communicate such alteration to the Income-tax Officer, and in default of such communication any approval given shall, unless the Central Board of Revenue otherwise orders, be deemed to have been withdrawn from the date on which the alteration took effect.

58R. Exemption of superannuation fund from income-tax.—Income derived from investments or deposits of an approved superannuation fund [3][and any capital gains arising from the sale, exchange or transfer of capital assets of such fund] shall be exempt from payment of income-tax, and any sum paid by an employer or an employee by way of contribution towards an approved superannuation fund shall, in the case of an employer, be deducted in computing his income, profits or gains for the purpose of assessment, and, in the case of an employee, be treated for all the purposes of this Act as if it were a sum to which the provisions of section 15 apply :

Provided that no such exemption shall be allowable to an employee in respect of any sum which is not an ordinary annual contribution :

Provided further that where a contribution by an employer is not an ordinary annual contribution it shall, for the purposes of this section, be treated, as the Central Board of Revenue may direct, either as an expense incurred in the year in which the sum is paid, or as an expense to be spread over such period of years as the Central Board of Revenue thinks proper.

58S. Treatment of repaid contributions.—(1) Where any contributions (including interest on contributions, if any) are repaid to an employee, the amount so repaid shall be deemed for the purposes of income-tax [4]* * to be income of the employee for that year. **(R. 11.)**

(2) Where any contributions (including interest on contributions, if any) are repaid to an employee during his lifetime but not at or in connection with the termination of his employment income-tax on the amount so repaid or paid shall, except in the case of an employee whose employment was carried on abroad, be deducted by the trustees of the fund at the average rate of tax at which the employee was liable to income-tax [4]* * during the preceding three years or during such period, if less than three years, as he was a member of the fund, and shall be paid by the trustees to the credit of the Central Government within the prescribed time and in such manner as the Central Board of Revenue may direct.

58T. Deduction from pay of, and contributions on behalf of, employee to be included in return under section 21.—Where an employer deducts from the emoluments paid to an employee or pays on his behalf any contributions of that employee to an approved superannuation fund, he shall include all such deductions or payments in the return which he is required to furnish under section 21.

[3] Inserted by s. 15 of the I. T. and E. P. T. (Amendment) Act, 1947 (22 of 1947).

[4] "And super-tax" omitted by s. 5 of the I. T. Law (Amendment) Act, 1940 (12 of 1940).

Div. 1 Ss. 58U-59

58U. Liabilities of trustees on cessation of approval of fund.—If a fund or a part of a fund for any reason ceases to be an approved superannuation fund, the trustees of the fund shall nevertheless remain liable to account for tax on any sum paid—

(*a*) on account of returned contributions (including interest on contributions, if any), and

(*b*) in commutation or in lieu of annuities,

in so far as the sum so paid is in respect of contributions made before the fund or part of the fund ceased to be an approved fund under the provisions of this Chapter.

58V. Particulars to be furnished in respect of superannuation funds.—The trustees of an approved superannuation fund and any employer who contributes to an approved superannuation fund shall, when required by notice from the Income-tax Officer, within twenty-one days of the date of such notice :—

(*a*) furnish to the Income-tax Officer a return containing such particulars of contributions made to the fund as the notice may require ;

(*b*) prepare and deliver to the Income-tax Officer a return containing—

(*i*) the name and place of residence of every person in receipt of an annuity from the fund,

(*ii*) the amount of the annuity payable to each annuitant,

(*iii*) particulars of every contribution (including interest on contributions, if any) returned to the employer or to employees, and

(*iv*) particulars of sums paid in commutation or in lieu of annuities ;

(*c*) furnish to the Income-tax Officer a copy of the accounts of the fund to the last date prior to such notice to which such accounts have been made up, together with such other information and particulars as the Central Board of Revenue may reasonably require.]

CHAPTER X

MISCELLANEOUS

59. Power to make rules.—(1) The [5][Central Board of Revenue] may, subject to the control of the [6][Central Government], make rules for carrying out the purposes of this Act and for the ascertainment and determination of any class of income. Such rules may be made for the whole of [7][the taxable territories] or for such part thereof as may be specified.

(2) Without prejudice to the generality of the foregoing power, such rules may—

(*a*) prescribe the manner in which, and the procedure by which, the income, profits and gains shall be arrived at in the case of—

(R. 23, 24.)

(*i*) incomes derived in part from agriculture and in part from business ;

[5] Substituted for "Board of Inland Revenue" by s. 4 and Schedule of the Central Board of Revenue Act, 1924 (4 of 1924).

[6] Substituted for "Governor General in Council" by the Government of India (Adaptation of Indian Laws) Order, 1937.

[7] Substituted for "British India" by the Adaptation of Laws Order, 1950.

Div. 1
Ss. 59-60

[8]* * * *

[8][(*ii*)] persons residing out of [9][the taxable territories];

(*b*) prescribe the procedure to be followed on applications for refunds; (R. 33, 34.)

[10][(*c*) prescribe the procedure for giving effect to the terms of any agreement [11][for the granting of relief in respect of double taxation or for the avoidance of double taxation which may be entered into by the Central Government under this Act]; (R. 36, 41.)

* * * *]

(*e*) provide for any matter which by this Act is to be prescribed.

[12][(3) In cases coming under clause (*a*) of sub-section (2), where the income, profits and gains liable to tax cannot be definitely ascertained, or can be ascertained only with an amount of trouble and expense to the assessee which, in the opinion of the Central Board of Revenue, is unreasonable, the rules made under that sub-section may—

(*a*) prescribe methods by which an estimate of such income, profits and gains may be made, and

(*b*) in cases coming under sub-clause (*i*) of clause (*a*) of sub-section (2), prescribe the proportion of the income which shall be deemed to be income, profits and gains liable to tax;

and an assessment based on such estimate or proportion shall be deemed to be duly made in accordance with the provisions of this Act.]

[13][(4)] The power to make rules conferred by this section shall, except on the first occasion of the exercise thereof, be subject to the condition of previous publication.

[13][(5)] Rules made under this section shall be published in the [14][official Gazette], and shall thereupon have effect as if enacted in this Act.

60. Power to make exemption, etc.—[15][(1)] The [16][Central Government] may, by notification in the [14][official Gazette], make an exemption, reduction in rate or other modification, in respect of income-tax in favour of any class of income, or in regard to the whole or any part of the income of any class of persons.

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[8] The original sub-clause (*ii*) was omitted and sub-clause (*iii*) was re-numbered (*ii*) by s. 77 of the Indian I. T. (Amendment) Act, 1939 (7 of 1939).

[9] Substituted for "British India" by the Adaptation of Laws Order, 1950.

[10] Substituted for the original cls. (*c*) and (*d*) by s. 28 of the Indian I. T. (Amendment) Act, 1953 (25 of 1953), with effect from the 1st April, 1952.

[11] Substituted for "for the avoidance of double taxation on income which may be entered into by the Central Government under section 49AA" by s. 27 of the Finance Act, 1956, with effect from the 1st April, 1956.

[12] Inserted by s. 2 of the Indian I. T. (Amendment) Act, 1927 (28 of 1927).

[13] Re-numbered, *ibid.*

[14] Substituted for "Gazette of India" by the Government of India (Adaptation of Indian Laws) Order, 1937.

[15] The original s. 60 was re-numbered as sub-section (1) by s. 10 of the Indian I. T. (Second Amendment) Act, 1930 (22 of 1930).

[16] Substituted for "Governor General in Council" by the Government of India (Adaptation of Indian Laws) Order, 1937.

Div. 1 Ss. 60-61

[17][(2) Where, by reason of any portion of an assessee's salary being paid in arrears or in advance, [18][or by reason of his having received in any one financial year salary for more than twelve months] [19][or a payment which is under the provisions of sub-section (1) of section 7 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 [20][Central Government] may grant [21][the appropriate relief].]

[22][(3) After the commencement of the Indian Income-tax (Amendment) Act, 1939, the power conferred by sub-section (1) shall not be exercisable except for the purpose of rescinding an exemption, reduction or modification already made].

[23][**60A. Power to make exemption, etc., in relation to [24][merged territories] [25][or to the territories which immediately before the 1st November, 1956, were comprised in any Part B State] [25a][or to Chandernagore].**—If the Central Government considers it necessary or expedient so to do for avoiding any hardship or anomaly, or removing any difficulty, that may arise as a result of the extension of this Act to the [24][merged territories] [25][or to the territories which immediately before the 1st November, 1956, were comprised in any Part B State] [25a][or to Chandernagore], the Central Government may, by general or special order, make an exemption, reduction in rate or other modification in respect of income-tax in favour of any class of income, or in regard to the whole or any part of the income of any person or class of persons :

Provided that the power conferred by this section shall not be exercisable [1][in the case of merged territories and [1a][the territories which immediately before the 1st November, 1956, were comprised in Part B States] other than the State of Jammu and Kashmir, after the 31st day of March, 1955, and, in the case of the State of Jammu and Kashmir [25a][and Chandernagore], after the 31st day of March, 1959,] except for the purpose of rescinding an exemption, reduction or modification already made.]

[2][**61. Appearance by authorised representative.**—(1) Any assessee, who is entitled or required to attend before [3][the Appellate Tribunal or] any Income-tax authority in connection with any proceeding under this Act otherwise than

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[17] Added by s. 10 of the Indian I. T. (Second Amendment) Act, 1930 (22 of 1930).

[18] Inserted by s. 27 of the Indian I. T. (Second Amendment) Act, 1933 (18 of 1933).

[19] Inserted by s. 78 of the Indian I. T. (Amendment) Act, 1939 (7 of 1939).

[20] Substituted for "Governor General in Council" by the Government of India (Adaptation of Indian Laws) Order, 1937.

[21] Substituted for "such relief as it may think fit" by s. 78 of the Indian I. T. (Amendment) Act, 1939 (7 of 1939).

[22] Added, *ibid.*

[23] Inserted by s. 19 of the Taxation Laws (Extension to Merged States and Amendment) Act, 1949 (67 of 1949).

[24] Substituted for "merged States" by the Adaptation of Laws Order, 1950.

[25] The words "or to any Part B State" were inserted by s. 3 of the Finance Act, 1950 (25 of 1950), with effect from the 1st April, 1950, and the present words were substituted for the above words by the Adaptation of Laws (No. 3) Order, 1956, with effect from the 1st November, 1956.

[25a] Inserted by s. 18 of the Finance Act, 1955, with effect from the 1st April, 1955.

[1] Substituted for "after the 31st day of March, 1955" by s. 2 and Schedule of the Taxation Laws (Extension to Jammu and Kashmir) Act, 1954 (41 of 1954).

[1a] Substituted for "Part B States" by the Adaptation of Laws (No. 3) Order, 1956, with effect from the 1st November, 1956.

[2] Substituted by s. 79 of the Indian I. T. (Amendment) Act, 1939 (7 of 1939).

[3] Inserted by s. 11 of the Indian I. T. (Amendment) Act, 1940 (40 of 1940).

when required under section 37 to attend personally for examination on oath or affirmation, may attend by a person authorised by him in writing in this behalf, being a relative of or a person regularly employed by the assessee, or a lawyer or accountant or Income-tax practitioner, and not being disqualified by or under sub-section (3). **Div. 1 S. 61**

(2) In this section,—

(*i*) a person regularly employed by the assessee shall include any officer of a Scheduled Bank with which the assessee maintains a current account or has other regular dealings ;

(*ii*) "lawyer" means a Barrister-at-Law or Solicitor or any other person entitled to plead in any Court of law in [4][the taxable territories] ;

(*iii*) "accountant" means a registered accountant enrolled in the Register of Accountants maintained by the Central Government under the Auditors Certificate Rules, 1932, or a holder of a restricted certificate under the Restricted Certificate Rules, 1932, or a member of an association of accountants recognised in this behalf by the Central Board of Revenue ; **(R. 44.)**

(*iv*) "Income-tax practitioner" means—

(*a*) any person who, before the 1st day of April, 1938, [5][in [4][the taxable territories], or before the 1st day of April, 1949, in any of the [6][merged territories],] [7][or before the 1st day of April, 1950, in any Part B State other than the State of Jammu and Kashmir,] [8][or before the 14th day of May, 1954, in the State of Jammu and Kashmir], attended before an Income-tax authority on behalf of any assessee otherwise than in the capacity of an employee or relative of that assessee ;

(*b*) any person who has passed any accountancy examination recognised in this behalf by the Central Board of Revenue ; or **(R. 45.)**

(*c*) any person who has acquired such educational qualifications as the Central Board of Revenue may prescribe for this purpose. **(R. 46.)**

(3) No person who has been dismissed from Government service after the 1st day of April, 1938, shall be qualified to represent an assessee under sub-section (1) ; and if any lawyer or registered accountant is found guilty of misconduct in connection with any income-tax proceedings by the authority empowered to take disciplinary action against members of the profession to which he belongs, or if any other person is found guilty of such misconduct by the Commissioner of Income-tax, the Commissioner of Income-tax may direct that he shall be thenceforward disqualified to represent an assessee under sub-section (1) :

Provided that—

(*a*) no such direction shall be made in respect of any person unless he is given a reasonable opportunity of being heard,

(*b*) any person against whom such direction is made may, within one month of the making of the direction, appeal to the Central Board of Revenue to have the direction cancelled, and

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[4] Substituted for "British India" by the Adaptation of Laws Order, 1950.

[5] Inserted by s. 20 of the Taxation Laws (Extension to Merged States and Amendment) Act, 1949 (67 of 1949).

[6] Substituted for "merged States" by the Adaptation of Laws Order, 1950.

[7] Inserted by s. 3 of the Finance Act, 1950 (25 of 1950), with effect from the 1st April, 1950.

[8] Inserted by s. 2 and Schedule of the Taxation Laws (Extension to Jammu and Kashmir) Act, 1954 (41 of 1954).

Div. 1
Ss. 61-64

(*c*) no such direction shall take effect until one month from the making thereof or, when an appeal is preferred, until the disposal of the appeal.]

62. Receipts to be given.—A receipt shall be given for any money paid or recovered under this Act.

63. Service of notices.—(1) A notice or requisition under this Act may be served on the person therein named either by post or, as if it were a summons issued by a Court, under the Code of Civil Procedure, 1908 (V of 1908).

(2) Any such notice or requisition may, in the case of a firm or a Hindu undivided family, be addressed to any member of the firm or [9][to the] manager, or any adult male member of the family [10][and, in the case of any other [11][association of persons], be addressed to the principal officer thereof.]

64. Place of assessment.—(1) Where an assessee carries on [12][a business, profession or vocation] at any place, he shall be assessed by the Income-tax Officer of the area in which that place is situate or, where the [12][business, profession or vocation] is carried on in more places than one, by the Income-tax Officer of the area in which [13][the principal place of his business, profession or vocation] is situate.

(2) In all other cases, an assessee shall be assessed by the Income-tax Officer of the area in which he resides.

(3) Where any question arises under this section as to the place of assessment, such question shall be determined by the Commissioner, or, where the question is between places in more [14][States] than one, by the Commissioners concerned, or, if they are not in agreement, by the [15][Central Board of Revenue] :

Provided that, before any such question is determined, the assessee shall have had an opportunity of representing his views :

[16][Provided further that the place of assessment shall not be called in question by an assessee if he has made a return in response to the notice under sub-section (1) of section 22 and has stated therein the principal place wherein he carries on his business, profession or vocation, or if he has not made such a return shall not be called in question after the expiry of the time allowed by the notice under sub-section (2) of section 22 or under section 34 for the making of a return :

Provided further that if the place of assessment is called in question by an assessee the Income-tax Officer shall, if not satisfied with the correctness of the claim, refer the matter for determination under this sub-section before assessment is made.]

(4) Notwithstanding anything contained in this section, every Income-tax Officer shall have all the powers conferred by or under this Act on an Income-tax Officer in respect of any income, profits or gains accruing or arising or received within the area for which he is appointed.

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[9] Substituted for "on the" by s. 2 and Sch. I of the Repealing and Amending Act, 1924 (7 of 1924).

[10] Added by s. 9 of the Indian I. T. (Amendment) Act, 1924 (11 of 1924).

[11] Substituted for "association of individuals" by s. 80 of the Indian I. T. (Amendment) Act, 1939 (7 of 1939).

[12] Substituted for "business" by s. 81, *ibid.*

[13] Substituted for "his principal place of business," *ibid.*

[14] Substituted for "Provinces" by the Adaptation of Laws Order, 1950.

[15] Substituted for "Board of Inland Revenue" by s. 4 and Sch. of the Central Board of Revenue Act, 1924 (4 of 1924).

[16] Added by s. 81 of the Indian I. T. (Amendment) Act, 1939 (7 of 1939).

[17][(5) The provisions of sub-section (1) and sub-section (2) shall not apply and shall be deemed never at any time to have applied to any assessee— **Div. 1 Ss. 64-66**

(*a*) on whom an assessment or re-assessment for the purposes of this Act has been, is being or is to be made in the course of any case in respect of which a Commissioner of Income-tax appointed without reference to area under sub-section (2) of section 5 is exercising the functions of a Commissioner of Income-tax, or

(*b*) where by [18][any direction given or] any distribution or allocation of work made by the Commissioner of Income-tax under sub-section (5) of section 5, [18][or in consequence of any transfer made [19]* * * under sub-section (7A) of section 5], a particular Income-tax Officer has been charged with the function of assessing that assessee, or

(*c*) who or whose income is included in a class of persons or a class of incomes specified in any notification issued under sub-section (6) of section 5,

but the assessment of such person, whether the proceedings for such assessment began before or after the 1st day of April, 1939, shall be made by the Income-tax Officer for the time being charged with the function of making such assessment by the Central Board of Revenue or by the Commissioner of Income-tax to whom he is subordinate, as the case may be.]

65. Indemnity.—Every person deducting, retaining or paying any tax in pursuance of this Act in respect of income belonging to another person is hereby indemnified for the deduction, retention or payment thereof.

66. Statement of case by Appellate Tribunal to High Court.—[20][(1) Within sixty days of the date upon which he is served with notice of an order under sub-section (4) of section 33 the assessee or the Commissioner may, by application in the prescribed form, accompanied where application is made by the assessee by a fee of one hundred rupees, require the Appellate Tribunal to refer to the High Court any question of law arising out of such order, and the Appellate Tribunal shall within ninety days of the receipt of such application draw up a statement of the case and refer it to the High Court: **(R. 22A.)**

Provided that, if, in the exercise of its powers under sub-section (2), the Appellate Tribunal refuses to state a case which it has been required by the assessee to state, the assessee may, within thirty days from the date on which he receives notice of the refusal to state the case, withdraw his application and, if he does so, the fee paid shall be refunded.

(2) If on any application being made under sub-section (1) the Appellate Tribunal refuses to state the case on the ground that no question of law arises, the assessee or the Commissioner, as the case may be, may, within six months from the date on which he is served with notice of the refusal, apply to the High Court, and the High Court may, if it is not satisfied of the correctness of the decision of the Appellate Tribunal, require the Appellate Tribunal to state the case and to refer it, and on receipt of any such requisition the Appellate Tribunal shall state the case and refer it accordingly.

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[17] Added by s. 6 of the I. T. Law Amendment Act, 1940 (12 of 1940).

[18] Inserted by s. 12 of the Indian I. T. (Amendment) Act, 1940 (40 of 1940).

[19] The words "by him" were omitted by s. 21 of the Taxation Laws (Extension to Merged States and Amendment) Act, 1949 (67 of 1949), and shall be deemed never to have been inserted.

[20] Sub-sections (1) to (5) were substituted by s. 92 of the Indian I. T. (Amendment) Act, 1939 (7 of 1939).

Div. 1 S. 66

(3) If on any application being made under sub-section (1) the Appellate Tribunal rejects it on the ground that it is time-barred, the assessee or the Commissioner, as the case may be, may, within two months from the date on which he is served with notice of the rejection, apply to the High Court, and the High Court, if it is not satisfied of the correctness of the Appellate Tribunal's decision, may require the Appellate Tribunal to treat the application as made within the time allowed under sub-section (1).

(4) If the High Court is not satisfied that the statements in a case referred under this section are sufficient to enable it to determine the question raised thereby, the Court may refer the case back to the Appellate Tribunal to make such additions thereto or alterations therein as the Court may direct in that behalf.

(5) The High Court upon the hearing of any such case shall decide the questions of law raised thereby and shall deliver its judgment thereon containing the grounds on which such decision is founded and shall send a copy of such judgment under the seal of the Court and the signature of the Registrar to the Appellate Tribunal which shall pass such orders as are necessary to dispose of the case conformably to such judgment.]

(6) Where a reference is made to the High Court [21]* * the costs shall be in the discretion of the Court.

(7) Notwithstanding that a reference has been made under this section to the High Court, income-tax shall be payable in accordance with the assessment made in the case :

Provided that, if the amount of an assessment is reduced as a result of such reference, the amount overpaid shall be refunded with such interest as the Commissioner may allow [22][unless the High Court, on intimation given by the Commissioner within thirty days of the receipt of the result of such reference that he intends to ask for leave to appeal to [23][the Supreme Court], makes an order authorising the Commissioner to postpone payment of such refund until the disposal of the appeal to [23][the Supreme Court].]

[24][(7A) Section 5 of the Indian Limitation Act, 1908 (IX of 1908), shall apply to an application to the High Court by an assessee [1][under sub-section (2) or sub-section (3)].]

[2][(8) For the purposes of this section, "the High Court" means—

(*a*) in relation to any State, the High Court for that State ;

(*b*) in relation to the Union territories of Delhi and Himachal Pradesh, the High Court of Punjab ;

(*c*) in relation to the Union territories of Manipur and Tripura, the High Court of Assam;

(*d*) in relation to the Union territory of the Andaman and Nicobar Islands, the High Court at Calcutta ; and

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[21] "On the application of an assessee" omitted by s. 92 of the Indian I. T. (Amendment) Act, 1939 (7 of 1939).

[22] Added by s. 82, *ibid.*

[23] Substituted for "His Majesty in Council" by the Adaptation of Laws Order, 1950.

[24] Inserted by s. 28 of the Indian I. T. (Second Amendment) Act, 1933 (18 of 1933).

[1] Substituted for "under sub-section (3) or sub-section (3A)" by s. 92 of the Indian I. T. (Amendment) Act, 1939 (7 of 1939).

[2] Substituted by the Adaptation of Laws (No. 3) Order, 1956, with effect from the 1st November, 1956.

(*e*) in relation to the Union territory of the Laccadive, Minicoy and Amindivi Islands, the High Court of Kerala.]

[3][66A. **Reference to be heard by Benches of High Courts and appeal to lie in certain cases to [4][the Supreme Court].**—(1) When any case has been referred to the High Court under section 66, it shall be heard by a Bench of not less than two Judges of the High Court, [5][and shall be decided in accordance with the opinion of such Judges or of the majority (if any) of such Judges :

Provided that where there is no such majority, the Judges shall state the point of law upon which they differ, and the case shall then be heard upon that point only by one or more of the other Judges of the High Court, and such point shall be decided according to the opinion of the majority of the Judges who have heard the case, including those who first heard it.]

[6][* * * * * * *]

(2) An appeal shall lie to [4][the Supreme Court] from any judgment of the High Court delivered on a reference made under section 66 in any case which the High Court certifies to be a fit one for appeal to [4][the Supreme Court].

(3) The provisions of the Code of Civil Procedure, 1908 (V of 1908), relating to appeals to [4][the Supreme Court] shall, so far as may be, apply in the case of appeals under this section in like manner as they apply in the case of appeals from decrees of a High Court :

Provided that nothing in this sub-section shall be deemed to affect the provisions of sub-section (5) or sub-section (7) of section 66 :

Provided further that the High Court may, on petition made for the execution of the order of [4][the Supreme Court] in respect of any costs awarded thereby, transmit the order for execution to any Court subordinate to the High Court.

(4) Where the judgment of the High Court is varied or reversed in appeal under this section, effect shall be given to the order of [4][the Supreme Court] in the manner provided in sub-sections (5) and (7) of section 66 in the case of a judgment of the High Court.

(5) [7][* * * * *]]

67. Bar of suits in Civil Court.—No suit shall be brought in any Civil Court to set aside or modify any assessment made under this Act, and no prosecution, suit or other proceeding shall lie against any [8][officer of the Government] for anything in good faith done or intended to be done under this Act.

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[3] Inserted by s. 8 of the Indian I. T. (Amendment) Act, 1926 (24 of 1926).

[4] Substituted for "His Majesty in Council" by the Adaptation of Laws Order, 1950.

[5] Substituted for "and in respect of such case the provisions of section 98 of the Code of Civil Procedure, 1908 (V of 1908), shall, so far as may be, apply notwithstanding anything contained in the Letters Patent of any High Court established by Letters Patent or in any other law for the time being in force" by s. 29 of the Indian I. T. (Amendment) Act, 1953 (25 of 1953), with effect from the 1st April, 1952.

[6] The proviso was omitted by the India (Adaptation of Income-tax, Profits Tax and Revenue Recovery Acts) Order, 1947 (G. G. O. 31).

[7] Omitted by the Adaptation of Laws Order, 1950.

[8] Substituted for "officer of the Crown" by the Adaptation of Laws Order, 1950. "Officer of the Crown" had been substituted for "Government Officer" by the Government of India (Adaptation of Indian Laws) Order, 1937.

Div. 1 Ss. 67A-68

[9][67A. **Computation of periods of limitation.**—In computing the period of limitation prescribed for an appeal under this Act or for an application under section 66, the day on which the order complained of was made, and the time requisite for obtaining a copy of such order, shall be excluded.]

[10][67B. **Act to have effect pending legislative provision for charge of income-tax.**—If on the 1st day of April in any year provision has not yet been made by [11][a Central Act] for the charging of income-tax for that year, this Act shall nevertheless have effect until such provision is so made as if the provision in force in the preceding year or the provision proposed in the Bill then before [12][Parliament], whichever is more favourable to the assessee, were actually in force.]

68. **Repeals.**—*Repealed by the Repealing Act*, 1927 (12 *of* 1927).

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[9] Inserted by s. 12 of the Indian I. T. (Second Amendment) Act, 1930 (22 of 1930).

[10] Inserted by s. 7 of the I. T. Law Amendment Act, 1940 (12 of 1940).

[11] Substituted for "an Act of the Indian Legislature" by the Adaptation of Laws Order, 1950.

[12] Substituted for "the Legislature," *ibid.*

[13][THE SCHEDULE

[*See* section 10(7).]

Rules for the computation of the Profits and Gains of Insurance Business

1. In the case of any person who carries on, or at any time in the preceding year carried on, life insurance business, the profits and gains of such person from that business shall be computed separately from his income, profits or gains from any other business.

2. The profits and gains of life insurance business shall be taken to be either—

(*a*) the gross external incomings of the preceding year from that business less the management expenses of that year, or

(*b*) the annual average of the surplus [14][arrived at by adjusting the surplus or deficit] disclosed by the actuarial valuation made [15][in accordance with the Insurance Act, 1938 (IV of 1938), in respect of] the last inter-valuation period ending before the year for which the assessment is to be made, [16]* * * * so as to exclude from it any surplus or deficit included therein which was made in any earlier inter-valuation period and any expenditure other than expenditure which may under the provisions of section 10 of this Act be allowed for in computing the profits and gains of a business,

whichever is the greater :

Provided that the amount to be allowed as management expenses shall not exceed—

(*a*) 7½ per cent of the premiums received during the preceding year in respect of single premium life insurance policies, *plus*

(*b*) in respect of the first year's premiums received in respect of other life insurance policies for which the number of annual premiums [17][payable] is less than twelve, or for which the number of years during which premiums are payable is less than twelve, for each such premium or each such year 7½ per cent of such first year's premiums received during the preceding year, *plus*

[18][(*c*) 90 per cent of the first year's premiums received during the preceding year in respect of all other life insurance policies, *plus*

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[13] The original Schedule was repealed by the Repealing Act, 1927 (12 of 1927), and this Schedule was added by s. 84 of the Indian I. T. (Amendment) Act, 1939 (7 of 1939).

[14] Inserted by s. 8 of the I. T. Law Amendment Act, 1940 (12 of 1940).

[15] Substituted for the word "for" by s. 30 of the Indian I. T. (Amendment) Act, 1953 (25 of 1953). This amendment shall be deemed to be operative in relation to any assessment subsequent to the assessment for the year ending on the 31st March, 1951, whether such assessment has or has not been made before the commencement of this Act, and where any such assessment has been made before such commencement it shall be lawful for the Income-tax Officer to revise it, wherever necessary, to give effect to this amendment.

[16] "After adjusting such surplus" omitted by s. 8 of the I. T. Law Amendment Act, 1940 (12 of 1940).

[17] Substituted for "received" by s. 14 of the Indian I. T. (Amendment) Act, 1944 (11 of 1944).

[18] Clause (*c*) and the original clause (*d*) were substituted by s. 14 of the Indian I. T. (Amendment) Act, 1944 (11 of 1944).

Div. 1 Rr. 2-3

[19][(*d*) in respect of all renewal premiums received during the preceding year an amount calculated at such percentage thereof as is permissible under sub-section (2) of section 40B of the Insurance Act, 1938 (IV of 1938), as reduced by any expenditure which is not admissible under section 10 of this Act.]]

3. In computing the surplus for the purpose of rule 2,—

(*a*) [19][four-fifths] of the amounts paid to or reserved for or expended on behalf of policy-holders shall be allowed as a deduction:

Provided that in the first such computation made under this rule of any such surplus no account shall be taken of any such amounts to the extent to which they are paid out of or in respect of any surplus brought forward from a previous inter-valuation period:

Provided further that if any amount so reserved for policy-holders ceases to be so reserved, and is not paid to or expended on behalf of policy-holders [19][that proportion of such amount (one-half or four-fifths, as the case may be)], if it has been previously allowed as a deduction, shall be treated as part of the surplus for the period in which the said amount ceased to be so reserved;

(*b*) any amount either written off or reserved in the accounts or through the actuarial valuation balance sheet to meet depreciation of or loss on the realisation of securities or other assets shall be allowed as a deduction, and any sums taken credit for in the accounts or actuarial valuation balance sheet on account of appreciation of or gains on the realisation of the securities or other assets shall be included in the surplus:

Provided that if upon investigation it appears to the Income-tax Officer after consultation with the [20][Controller of Insurance] that having due regard to the necessity for making reasonable provision for bonuses to participating policy-holders and for contingencies, the rate of interest or other factor employed in determining the liability in respect of outstanding policies is materially inconsistent with the valuation of the securities and other assets so as artificially to reduce the surplus, such adjustment shall be made to the allowance for depreciation of, or to the amount to be included in the surplus in respect of appreciation of, such securities and other assets, as shall increase the surplus for the purposes of these rules to a figure which is fair and just;

[21][(*c*) interest received in respect of any securities of the Central Government which have been issued or declared to be income-tax free shall not be excluded but the whole amount of such interest received during the inter-valuation period shall be exempt from income-tax under the second proviso to section 8 though not from super-tax.]

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[19] Clause (*d*) was substituted; the words "four-fifths" were substituted for "one-half"; and the words "that proportion of such amount (one-half or four-fifths, as the case may be)" were substituted for "one-half of such amount", by s. 30 of the Indian I. T. (Amendment) Act, 1953 (25 of 1953). These amendments shall be deemed to be operative in relation to any assessment subsequent to the assessment for the year ending on the 31st March, 1951, whether such assessment has or has not been made before the commencement of this Act, and where any such assessment has been made before such commencement it shall be lawful for the Income-tax Officer to revise it, wherever necessary, to give effect to these amendments.

[20] Substituted for "Superintendent of Insurance", *ibid.*

[21] Substituted by s. 14 of the Indian I. T. (Amendment) Act, 1944 (11 of 1944).

4. Where for any year an assessment is made in accordance with the annual average of a surplus disclosed by a valuation for an inter-valuation period exceeding twelve months, then, in computing the tax payable for that year, credit shall not be given in accordance with sub-section (5) of section 18 for the tax paid in the preceding year, but credit shall be given for the annual average of the income-tax paid by deduction at source from interest on securities or otherwise during such period.

5. For the purposes of these rules—

(*i*) "preceding year" means that year for which annual accounts are required to be prepared under the Insurance Act, 1938, immediately preceding the year for which the assessment is to be made or until the commencement of the Insurance Act, 1938, the previous year as defined in section 2 of this Act;

(*ii*) "gross external incomings" means the full amount of incomings from interest, dividends, fines and fees and all other incomings from whatever source derived (except premiums received from policy-holders and interest and dividends on any annuity fund) and includes also profits from reversions and on the sale or the granting of annuities, but excludes profits on the realisation of securities [22][or other assets]:

Provided that incomings, including the annual value of the property occupied by the assessee, which but for the provisions of sub-section (7) of section 10 would have been assessable under section 9 shall be computed upon the basis laid down in the last-named section, and that there shall be allowed from such gross incomings such deductions as are permissible under that section;

(*iii*) "management expenses" means the full amount of expenses (including commissions) incurred exclusively in the management of the business of life insurance, and in the case of a company carrying on other classes of business as well as the business of life insurance in addition thereto a fair proportion of the expenses incurred in the general management of the whole business. Bonuses or other sums paid to or reserved on behalf of policy-holders, depreciation of, and losses on the realisation of, securities [22][or other assets] and any expenditure other than expenditure which may under the provisions of section 10 of this Act be allowed for in computing the profits and gains of a business are not management expenses for the purposes of these rules;

(*iv*) "life insurance business" means life insurance business as defined in clause (11) of section 2 of the Insurance Act, 1938;

(*v*) "securities" includes stocks and shares.

6. The profits and gains of any business of insurance other than life insurance shall be taken to be the balance of the profits disclosed by the annual accounts, copies of which are required under the Insurance Act, 1938, to be furnished to the [23][Controller of Insurance] after adjusting such balance so as to exclude from it any expenditure other than expenditure which may under the provisions of section 10 of this Act be allowed for in computing the profits and gains of a business.

[22] Inserted by s. 14 of the Indian I. T. (Amendment) Act, 1944 (11 of 1944).

[23] Substituted for "Superintendent of Insurance" by s. 30 of the Indian I. T. (Amendment) Act, 1953 (25 of 1953).

Div. 1 Rr. 6-9

Profits and losses on the realisation of investments and depreciation and appreciation of the value of investments shall be dealt with as provided in rule 3 for the business of life insurance.

7. The profits and gains of companies carrying on dividing societies or assessment business shall be taken to be 15 per cent of the premium income of the previous year, or in the case of non-resident companies 15 per cent of the [24][premium income of the previous year derived from the taxable territories.]

[25][8. The profits and gains of the branches in the taxable territories of a person not resident in the taxable territories and carrying on any business of insurance, may, in the absence of more reliable data be deemed to be that proportion of the world income of such person which corresponds to the proportion which his premium income derived from the taxable territories bears to his total premium income.

For the purposes of this rule, the world income in relation to life insurance business of a person not resident in the taxable territories shall be computed in the manner laid down in these rules for the computation of the profits and gains of life insurance business carried on in the taxable territories.]

9. These rules apply to the assessment of the profits of any business of insurance carried on [1][by a mutual insurance association] [2][or by a co-operative society].]

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[24] Substituted for "British Indian premium income of the previous year" by the Adaptation of Laws Order, 1950.

[25] Substituted by s. 30 of the Indian I. T. (Amendment) Act, 1953 (25 of 1953). The amendment shall be deemed to be operative in relation to any assessment subsequent to the assessment for the year ending on the 31st March, 1951, whether such assessment has or has not been made before the commencement of this Act, and where any such assessment has been made before such commencement it shall be lawful for the Income-tax Officer to revise it, wherever necessary, to give effect to this amendment.

[1] Substituted for "by a mutual insurance company" by s. 13 of the Indian I. T. (Amendment) Act, 1940 (40 of 1940).

[2] Added by s. 19 of the Finance Act, 1955, with effect from the 1st April, 1955.

DIVISION 2

THE INDIAN INCOME-TAX RULES, 1922

THE INDIAN INCOME-TAX RULES, 1922*

In exercise of the powers conferred by section 59 of the Indian Income-tax Act, 1922 (XI of 1922), the Board of Inland Revenue has made the following rules, namely :—

1. These rules may be called the Indian Income-tax Rules, 1922.

1A. They extend to the whole of India.

2. Any firm constituted under an Instrument of Partnership specifying the individual shares of the partners may, under the provisions of section 26A of the Indian Income-tax Act, 1922 (hereinafter in these rules referred to as the Act), register with the Income-tax Officer, the particulars contained in the said Instrument on application made in this behalf.

Such application shall be signed by all the partners (not being minors) personally, or in the case of a dissolved firm by all persons (not being minors) who were partners in the firm immediately before dissolution and by the legal representative of any such partner who is deceased, and shall, for any year of assessment up to and including the assessment for the year ending on the 31st day of March, 1953, be made before the 28th February, 1953, and for any year of assessment subsequent thereto, be made—

(*a*) where the firm is not registered under the Indian Partnership Act, 1932 (IX of 1932), or where the deed of partnership is not registered under the Indian Registration Act, 1908 (XVI of 1908), and the application for registration is being made for the first time under the Act,

(*i*) within a period of six months of the constitution of the firm or before the end of the "previous year" of the firm whichever is earlier, if the firm was constituted in that previous year,

(*ii*) before the end of the previous year in any other case,

(*b*) where the firm is registered under the Indian Partnership Act, 1932 (IX of 1932), or where the deed of partnership is registered under the Indian Registration Act, 1908 (XVI of 1908), before the end of the previous year of the firm, and

(*c*) where the application is for renewal of registration under Rule 6 for any year, before the 30th day of June of that year :

Provided that the Income-tax Officer may entertain an application made after the expiry of the time-limit specified in this rule, if he is satisfied that the firm was prevented by sufficient cause from making the application within the specified time.

3. The application referred to in Rule 2 shall be made in the form annexed to this rule and shall be accompanied by the original Instrument of Partnership under which the firm is constituted, together with a copy thereof : provided that if the Income-tax Officer is satisfied that for some sufficient reason the original Instrument cannot conveniently be produced, he may accept a copy of it certified in writing by all the partners (not being minors) or, where the application is made after dissolution of the firm, by all the persons referred to in the said Rule, to be a correct copy, and in such a case the application shall be accompanied by a duplicate copy.

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* Prior to 1st April, 1924, the Rules were made by the Board of Inland Revenue and subsequent to that date they were made or amended by the Central Board of Revenue.

Div. 2
R. 3

FORM I

Form of application for registration of a firm under section 26A of the Indian Income-tax Act, 1922

To

The Income-tax Officer,

Dated 19 .

Income-tax year 19 /19 .

1. We beg to apply for the registration of our firm under section 26A of the Indian Income-tax Act, 1922, for the assessment for the income-tax year 19 /19 .

2. The original / A certified copy of the Instrument of Partnership under which the firm is constituted specifying the individual shares of the partners together with a copy / duplicate copy is enclosed. The prescribed particulars are given in the Schedule below.

3. We do hereby certify that the profits (or loss if any) of the previous period up / year were/will be to the date of dissolution were/will be divided or credited as shown in Section B of the Schedule and that the information given above and in the attached Schedule is correct.

(*Signatures*)

(*Address*)

NOTE.—This application must be signed personally by all the partners (not being minors) in the firm as constituted at the date on which the application is made, or where the application is made after dissolution of the firm, by all persons (not being minors) who were partners in the firm immediately before dissolution and by the legal representative of any such person who is deceased.

SCHEDULE

Name of partner	Address	Date of admittance to partnership	(1) Interest on capital or loans (if any)	(1) Salary or commission from firm	(2) Share in the balance of profits (or loss) (annas & pies in the rupee)	Remarks
1	2	3	4	5	6	7
(*A*) *Particulars of the firm as constituted at the date of this application.*						

(*B*) *Particulars of the apportionment of the income, profits or gains (or loss) of the business, profession or vocation in the previous year between the partners who in that previous year were entitled to share in such income, profits or gains (or loss). (Applicable where the application is made after the end of the relevant previous year.)* **Div. 2 Rr. 3-6**

NOTE.—(1) If the interest, salary and/or commission is payable (or allowable) only if there are sufficient profits available, this fact should be noted by marking the items in the appropriate columns with the letter "R". (In other cases the interest, salary and/or commission may exceed the total profits so as to leave a balance of net loss divisible in column 6.)

(2) If any partner is entitled to share in profits but is not liable to bear a similar proportion of any losses this fact should be indicated by putting against his share in column 6 the letter "P".

4. (1) If, on receipt of the application referred to in Rule 3, the Income-tax Officer is satisfied that there is or was a firm in existence constituted as shown in the instrument of partnership and that the application has been properly made, he shall enter in writing at the foot of the instrument or certified copy, as the case may be, a certificate in the following form, namely :—

"This $\frac{\text{instrument of partnership}}{\text{certified copy of an instrument of partnership}}$ has this day been registered with me, the Income-tax Officer for..... in the State of. ..... under section 26A of the Indian Income-tax Act, 1922, and this certificate of registration shall have effect for the assessment for the year ending on the 31st day of March 19 ."

(2) If the Income-tax Officer is not so satisfied, he shall pass an order in writing refusing to recognise the instrument of partnership, or the certified copy thereof, and furnish a copy of such order to the applicants.

(3) The certificate referred to in paragraph (1) above shall be signed by the Income-tax Officer, who shall thereupon return to the applicants the instrument of partnership or the certified copy thereof, as the case may be, and shall retain the copy or the duplicate copy thereof.

5. The certificate of registration granted under Rule 4 shall have effect only for the assessment to be made for the year mentioned therein.

6. Any firm to whom a certificate of registration has been granted under Rule 4 may apply to the Income-tax Officer to have the certificate of registration renewed for a subsequent year. Such application shall be signed personally by all the partners (not being minors) of the firm or, where the application is made after dissolution of the firm, by all persons (not being minors) who were partners in the firm immediately before dissolution and by the legal representative of any such person who is deceased, and accompanied by a certificate in the form set out below. The application shall be made before the 30th day of June of the year for which assessment is to be made provided that the Income-tax Officer may entertain an application made after the expiry of the said date, if he is satisfied that the firm was prevented by sufficient cause from making the application before that date.

Div. 2 R. 6 Form of application for the renewal of registration of a firm under section 26A of the Indian Income-tax Act, 1922

To

The Income-tax Officer,

Dated 19 .

Assessment for the Income-tax Year 19 /19 .

1. We beg to apply for the renewal of the registration of our firm under section 26A of the Indian Income-tax Act, 1922, for the assessment for the income-tax year 19 /19 .

2. The instrument of partnership / certified copy of the instrument of partnership was registered by the Income-tax Officer for in the State of on the of 19 and we hereby certify that the constitution of the firm and the individual shares of the partners as specified in the instrument of partnership / certified copy of the instrument of partnership so registered on. . . . . remain unaltered.

3. We do hereby further certify that the profits (or loss if any) of the previous year were / period up to the date of dissolution were/will be divided or credited as shown below :—

Particulars of the apportionment of the income, profits or gains (or loss) of the business, profession or vocation in the previous year or the period up to the date of dissolution between the partners who were entitled to share in such income, profits or gains (or loss).

Name of partner	Address	Date of admittance to partnership	(1) Interest on capital or loans (if any)	(1) Salary or commission from firm	(2) Share in the balance of profits (or loss) (annas & pies in the rupee)	Remarks
1	2	3	4	5	6	7

NOTE.—(1) If the interest, salary and/or commission is payable (or allowable) only if there are sufficient profits available, this fact should be noted by marking the items in the

appropriate columns with the letter "R". (In other cases the interest, salary and/or commission may exceed the total profits so as to leave a balance of net loss divisible in column 6.)

(2) If any partner is entitled to share in profits but is not liable to bear a similar proportion of any losses this fact should be indicated by putting against his share in column 6 the letter "P".

(*Signatures*)

(*Address*)

NOTE.—This application must be signed personally by all the partners (not being minors) in the firm, or if made after dissolution of the firm, by all persons (not being minors) who were partners in the firm immediately before dissolution and by the legal representative of any such person who is deceased.

6A. On receipt of an application under Rule 6 the Income-tax Officer may, if he is satisfied that the application is in order and that there is or was a firm in existence constituted as shown in the Instrument of Partnership, grant to the assessee a certificate signed and dated by him in the following form :—

"The registration of the firm of. . . . . granted on. . . . .. is renewed by me and will remain effective for the assessment for the year ending on the 31st day of March 19 ."

If the Income-tax Officer is not so satisfied, he shall pass an order in writing refusing to renew the registration of the firm.

6B. In the event of the Income-tax Officer being satisfied that the certificate granted under Rule 4, or under Rule 6A, has been obtained without there being a genuine firm in existence, he may cancel the certificate so granted.

7. Under section 9(1)(*vi*) of the Act, the sum to be allowed in respect of collection charges shall not exceed 6 per cent of the annual value of the property.

***8.** The allowance under section 10(2)(*vi*) of the Act in respect of depreciation of buildings, machinery, plant or furniture shall be at percentages of the written down value or original cost, as the case may be, equal to one-twelfth the number shown in the corresponding entry in the second column of the following statement :

Provided that if the buildings, machinery, plant or furniture have been used by the assessee in his business for not less than two months during the previous year, the percentage shall be increased proportionately according to the number of complete months of user by the assessee :

Provided further that in the case of a seasonal factory worked by the assessee during all the working seasons of the previous year the percentage shall be increased as if the buildings, machinery, plant or furniture had been in use throughout the period the assessee was the owner thereof during the previous year.

* The amendments made in this Rule by Notification No. 31 dated the 15th May 1948, apply to assessments for the year ending on the 31st day of March 1949 and subsequent years.

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Class of asset	Rate Number on the basis of which the percentage is to be calculated on the written down value, except where otherwise indicated in the case of ocean-going steamers	Remarks
I.—Buildings—		
(1) First class substantial buildings of selected materials	2·5	Double these numbers 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	
(4) Purely temporary erections such as wooden structures.	....	No rate is prescribed; renewals will be allowed as revenue expenditure.
II.—Furniture and fittings—		
(1) General	6	
(2) Rate for furniture and fittings used in hotels, cinema houses and boarding houses	9	
III.—Machinery and plant—		
(1) General rate	7	An extra allowance up to a maximum of 50 per cent of the normal allowance will be allowed by the Income-tax Officer where a concern claims such allowance on account of double shift working and satisfies the Income-tax Officer that the concern has actually worked double shift. An extra allowance up to a maximum of 100 per cent of the normal allowance instead of 50 per cent will be allowed in the assessments for five years commencing with the assessment for the year 1949-50, where a concern proves that there has been triple shift working. The calculations of the extra allowances for double shift and for triple shift shall be made separately, proportionate to the number of days during which there was only double shift working and during which there was triple shift working. For the purpose of granting this extra allowance the normal number of working days throughout the year will be taken as 300 and if, for example, a concern has worked only double shift for 100 days, and

Class of asset	Rate Number on the basis of which the percentage is to be calculated on the written down value, except where otherwise indicated in the case of ocean-going steamers	Remarks
		triple shift for another 100 days, the extra allowance for double shift will be $\frac{1}{3}$ of 50 per cent of the normal allowance for the whole year and that for triple shift will be $\frac{1}{3}$ of 100 per cent of the normal allowance for the whole year. This applies to all concerns whether the general rate or any special rate applies to them, but does not apply to an item of machinery or plant specifically excepted by the letters "N. E. S. A."* being shown against it. *Explanation.*—For this purpose the normal allowance means the amount of depreciation allowance for the year calculated in accordance with Rule 8, but excluding the extra depreciation allowance for multiple shift working or for new plant and machinery.
(2) Special rates to be applied to the whole of the machinery and plant used in the following concerns :—		The special rates specified hereinafter may be adopted at the option of the assessee for electrical machinery, air-conditioning machinery, locomotives, rolling-stock, tramways and railways, weighing machines, calculating machines, typewriters, Neopost Franking machines, accounting machines, other office machinery, refrigeration plant, containers, etc., and motor vehicles used in these concerns.
A.— (*i*) Flour mills except rollers. (*ii*) Rice mills. (*iii*) Bone mills. (*iv*) Sugar works except rollers. (*v*) Distilleries. (*vi*) Ice factories. (*vii*) Aerating gas factories. (*viii*) Match factories except wooden match frames. (*ix*) Tea factories. (*x*) Shoe and other leather goods factories. (*xi*) Starch factories. (*xii*) Coffee manufacturing concerns.	9	

* Letters N. E. S. A. are a contraction of the expression "No extra-shift allowance".

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Class of asset	Rate Number on the basis of which the percentage is to be calculated on the written down value, except where otherwise indicated in the case of ocean-going steamers	Remarks
(*xiii*) Rollers used in flour mills and sugar works.	*Nil*	The cost of replacement of the rollers will be allowed as revenue expenditure.
(*xiv*) Wooden match frames used in match factories.	*Nil*	The cost of replacement of the frames will be allowed as revenue expenditure.
B.— (*i*) Paper mills. (*ii*) Straw board mills. (*iii*) Ship building and engineering works. (*iv*) Iron and brass foundries. (*v*) Aluminium factories. (*vi*) Electrical engineering works. (*vii*) Motor car repairing works. (*viii*) Internal combustion engines repairing works. (*ix*) Galvanizing works. (*x*) Patent stone works. (*xi*) Oil extraction factories. (*xii*) Chemical works. (*xiii*) Soap and candle works. (*xiv*) Lime works. (*xv*) Saw mills. (*xvi*) Tin and can making works. (*xvii*) Dyeing and bleaching works. (*xviii*) Cement works using rotary kilns. (*xix*) Rod mills. (*xx*) Hydraulic presses. (*xxi*) Brick manufacture. (*xxii*) Tile making industry. (*xxiii*) The manufacture of vegetable ghee. (*xxiv*) The manufacture of optical instruments. (*xxv*) Coke manufacture. (*xxvi*) The manufacture of concrete pipes. (*xxvii*) *Omitted.*	10	

Class of asset	Rate Number on the basis of which the percentage is to be calculated on the written down value, except where otherwise indicated in the case of ocean-going steamers	Remarks
(*xxviii*) Telephone operating concerns. (*xxix*) Wire & nail making Mills. (*xxx*) Iron and Steel Industry except rolling mill rolls (Blast furnace plant, steel-making plant, steel-rolling plant, forges, generators, boilers and sheet mills).	10	
(*xxx-a*) Rolling mill rolls used in Iron and Steel Industry.	*Nil*	The cost of replacement of the rolling mill rolls will be allowed as revenue expenditure.
(*xxxi*) Tanneries. (*xxxii*) Battery manufacture. (*xxxiii*) The manufacture of Healds & Reeds (knitting, reed-making, varnishing, doubling, winding & polishing machines). (*xxxiv*) The manufacture of confectionery including biscuits & peppermints. (*xxxv*) Manufacture of pottery and other clay products.	10	
C.— (*i*) Rubber and plastic goods factories— (*a*) General machinery & plant .. .. (*b*) Moulds (N.E.S.A.).	 12 40	
D.— (*i*) Silk manufacturing—weaving machinery worked by electric motors including winding machines, twisting frames, doubling machines, pirn winding machines, warping machines, looms, stentering machines and hydro-extractors	12	
(3) Special rates to be applied to other machinery & plant—		

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Class of asset	Rate Number on the basis of which the percentage is to be calculated on the written down value, except where otherwise indicated in the case of ocean-going steamers	Remarks
A.—Ropeway structures (N.E.S.A.)—		
(*i*) Trestle and Station steel work	6	
(*ii*) Driving and tension gearing	10	
(*iii*) Carriers	12	
(*iv*) Ropeway ropes and trestle sheaves and connected parts	30	
B.—Salt works—		
(*i*) Machinery, plant, locomotives, wagons, and rolling stock	15	
(*ii*) Barges and floating plant (N.E.S.A.)	10	
(*iii*) General plant and machinery used in Engineering shops	10	
(*iv*) Reservoirs, condensers, salt pans, delivery channels and piers, if constructed of masonry, concrete cement, asphalt or similar materials (N.E.S.A.)	6	
Note.— Repairs to similar works made of earth will be allowed as revenue expenditure.		
(*v*) Piers, quays and jetties constructed entirely or mainly of steel (N.E.S.A.)	7 5	
(*vi*) Piers, quays and jetties constructed entirely or mainly of wood(N.E.S.A.)	12	
(*vii*) Pipe lines for conveying brine if constructed of masonry, concrete cement, asphalt or similar materials (N.E.S.A.) ..	12	
(*viii*) Salt pans, reservoirs and condensers etc. made of impervious clay.	*Nil*	Renewals will be allowed as revenue expenditure.
C.—Electrical machinery—		
(*i*) Batteries	20	
(*ii*) Other electrical machinery including electrical		

Class of asset	Rate Number on the basis of which the percentage is to be calculated on the written down value, except where otherwise indicated in the case of ocean-going steamers	Remarks
generators and motors (other than tramway motors)	10	
(*iii*) Switchgear and instruments, transformers and other stationary plant and wiring and fittings of electric light and fan installations (N.E.S.A.) ..	10	
(*iv*) Underground cables and wires (N.E.S.A.) ..	7·5	
(*v*) Overhead cables & wires (N.E.S.A.)	5	
(*vi*) X-Ray and Electro-therapeutic apparatus & accessories thereto (N.E.S.A.)	20	
D.—Machinery used in the production and exhibition of cinematograph films (N.E.S.A.)—		
(*i*) Recording equipment, reproducing equipment, developing machines, printing machines, editing machines, synchronisers and studio lights except bulbs	20	
(*ii*) Projecting equipment of film exhibiting concerns.	20	
(*iii*) Bulbs of studio lights ..	*Nil*	Renewals of bulbs will be allowed as revenue expenditure.
E.—Electric supply undertakings—		
(*i*) Electric plant, machinery, boilers	10	
(*ii*) Hydro-electric concerns—hydraulic works, pipe lines and sluices (N.E.S.A.)	2·5	
F.—Electric tramways—		
(*i*) Permanent way (N.E.S.A.)—		
(*a*) Not exceeding 50,000 car miles per mile of track per annum ..	9	
(*b*) Exceeding 50,000 and not exceeding 75,000 car miles per mile of track per annum ..	10	

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Class of asset	Rate Number on the basis of which the percentage is to be calculated on the written down value, except where otherwise indicated in the case of ocean-going steamers	Remarks
(*c*) Exceeding 75,000 and not exceeding 1,25,000 car miles per mile of track per annum	12	
(*d*) Exceeding 1,25,000 car miles per mile of track per annum ..	15	
(*ii*) Cars—car trucks, car bodies, electrical equipment and motors (N.E. S.A.)	10	
(*iii*) General plant, machinery and tools..	9	
G.—Tramways run by internal combustion engines (N.E. S.A.)—		
(*i*) Permanent way	The same numbers as have been prescribed for the permanent way of electric tramways.	
(*ii*) Tramcars including engines and gears	10	
H.—Mineral oil concerns (N.E. S.A.)—		
Refineries—		
(1) Boilers	10	
(2) Prime movers	10	
(3) Process plant	12	
Field Operations—		
(1) Boilers	10	
(2) Prime movers	10	
(3) Process plant	12	
except for the following items—		
1. Below ground	100	
2. Above ground—		
(*a*) Portable boilers, drilling tools, well-head tanks, rigs, etc. ..	30	
(*b*) Storage tanks ..	10	
(*c*) Pipe lines—		
(*i*) Fixed boilers ..	10	
(*ii*) Prime movers ..	12	
(*iii*) Pipe line	10	
(*d*) Distribution—		
1. Returnable packages.	*Nil*	Cost of packages actually used up will be allowed as revenue expenditure.

Class of asset	Rate Number on the basis of which the percentage is to be calculated on the written down value, except where otherwise indicated in the case of ocean-going steamers	Remarks
2. Kerbside pumps including underground tanks and fittings	15	
I.—Ships (N.E.S.A.)—		
(*i*) Ocean—		
(*a*) Steamers and motor vessels	5	The allowance is to be calculated on the original cost. For (1) the increased rate of depreciation on ocean-going steamers and motor vessels due to war-time conditions, (2) the rate of depreciation on second-hand ocean-going steamers and motor vessels, and (3) the rate of depreciation on additions to ocean-going steamers and motor vessels—see Appendix A.
(*b*) Sail or tug	4	
(*ii*) Inland—		
(*a*) Steamers and motor vessels	10	
(*b*) Tug boats	12 5	
(*c*) Iron or steel flats for cargo	10	
(*d*) Wooden cargo boats up to 50 tons capacity	10	
(*e*) Wooden cargo boats over 50 tons capacity	10	
(*f*) Motor launches ..	12·5	
*(*g*) Speed boats ..	20	
J.—Mines and quarries (N.E.S.A.)—		
(*i*) Machinery—		
(*a*) Surface and underground machinery (except electrical machinery), head-gear, moving parts and rails	15	
(*b*) Boilers and head-gears (excluding moving parts) ..	8	
(*ii*) Coal tubs, winding ropes, haulage ropes and sand stowing pipes.	*Nil*	Renewals will be allowed as revenue expenditure.
(*iii*) Shafts and inclines ..	7	
(*iv*) Portable under-ground machinery	25	

* "Speed boat" means a motor-driven boat by a high speed internal combustion engine capable of propelling the boat at a speed exceeding 15 miles per hour in still water and so designed that when running at speed it will plane, *i.e.*, its bow will rise from the water.

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Class of asset	Rate Number on the basis of which the percentage is to be calculated on the written down value, except where otherwise indicated in the case of ocean-going steamers	Remarks
(*v*) Safety lamps	*Nil*	Cost of lamps actually used up will be allowed as revenue expenditure.
(*vi*) Tramways on the surface.	10	
K.—Aeroplanes (N.E.S.A.)—		
(*i*) Aircraft	30	
(*ii*) Aero-engines	40	
(*iii*) Aerial photographic apparatus	25	
L.—		
(*i*) Textile machinery excluding silk manufacturing machinery—		
(*a*) Cotton	10	
(*b*) Jute excluding generating plant.. .	9	
(*c*) Woollen and worsted	10	
(*d*) Carpet	10	
(*ii*) Ginning and pressing machinery	9	
M.—		
(*i*) Air compressors and pneumatic machinery.		
(*ii*) Electro-plating and electro-welding plant.		
(*iii*) Newspaper production plant and machinery.		
(*iv*) Air-conditioning machinery.	10	
(*v*) Locomotives, rolling stock, tramways, and railways used by concerns excluding railway concerns (N.E.S.A.).		
N.—		
(*i*) Tube well boring plant.		
(*ii*) Concrete pile driving machines.		
(*iii*) Weighing machines (N.E.S.A.).		
(*iv*) Works instruments.	12	
(*v*) Automatic and semi-automatic machine tools.		
(*vi*) Precision machine tools, *e.g.*, grinding machines.		
O.—		
(*i*) Calculating machines (N.E.S.A.).		
(*ii*) Typewriters (N.E.S.A.).		
(*iii*) Neopost Franking machines (N.E.S.A.).	15	
(*iv*) Accounting machines (N.E.S.A.).		

Class of asset	Rate Number on the basis of which the percentage is to be calculated on the written down value, except where otherwise indicated in the case of ocean-going steamers	Remarks
(*v*) Other office machinery (N.E.S.A.).		
(*vi*) Sewing and knitting machines employed in the manufacture of hosiery and woollen goods.		
(*vii*) Sewing and stitching machines for canvas or leather.		
(*viii*) Hand or automatic embroidery machines and their accessories (N.E.S.A.).	15	
(*ix*) Refrigeration plant, containers, etc. (other than racks) (N.E.S.A.).		General rate prescribed for furniture and fittings shall apply to racks.
(*x*) Road making plant and machinery.		
(*xi*) Artificial silk manufacturing machinery except the wooden parts.		
(*xi-a*) Wooden parts of the plant and machinery used for the manufacture of artificial silk.	*Nil*	The cost of replacement of the wooden parts will be allowed as revenue expenditure.
(*xii*) Surgical instruments (N.E.S.A.).		
(*xiii*) Wireless apparatus and gear, wireless appliances and accessories (N.E.S.A.).	15	
(*xiv*) Building contractors' machinery (N.E.S.A.).		
P.—		
(*i*) Indigenous sugar-cane crushers (Kohlus and Belans) (N.E.S.A.) ..	18	
Q.—		
(*i*) Motor cars (N.E.S.A.) ..	20	
(*ii*) Cycles (N.E.S.A.) ..	20	
R.—		
(*i*) Moulds used in the manufacture of concrete pipes (N.E.S.A.)	25	
(*ii*) Motor taxis, motor lorries, motor buses, and motor tractors (N.E.S.A.)	25	
S.—		
(*i*) Railway sidings (N.E.S.A.)	7	
T.—*Glass manufacturing concerns except direct fire glass melting*		

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Class of asset	Rate Number on the basis of which the percentage is to be calculated on the written down value, except where otherwise indicated in the case of ocean-going steamers	Remarks
furnaces—		
(*i*) Recuperative and Regenerative glass melting furnaces	20	
(*ii*) Other plant and machinery including machinery for the manufacture of vacuum tubes and vacuum bulbs	10	
(*iii*) Direct fire glass melting furnaces.	*Nil*	Replacement of the furnaces will be allowed as revenue expenditure.
U.—Earth moving machinery employed in heavy construction works, such as dams, tunnels, canals, etc. (*N.E.S.A.*)—		
(*i*) Tractors	25	
(*ii*) Dumpers	20	
(*iii*) Motor Graders, Tournapul, Scrapers, Excavators, Rooter, Tourna Dozer	15	

APPENDIX A

1. *Increased rate of depreciation on ocean-going steamers and motor vessels due to war-time conditions.*—The rate of depreciation allowable on ocean-going steamers and motor vessels will be increased from 5 per cent to 6·25 per cent per annum for the period commencing 1st September 1939 and ending six months after the cessation of the present hostilities,—the date whereof will be notified. This increase will affect years of assessment 1940-41 onwards. In order to secure that all shipping concerns receive the increased allowance for the same length of time, the allowance for the year of assessment 1940-41 will have reference to the proportions falling before and after the end of August 1939 of the trading year which is the "previous year" for income-tax purposes for that year of assessment.

Example 1

If the "previous year" was the calendar year 1939, the depreciation allowance for the year of assessment 1940-41 will be computed at the rate of 5 per cent. for 8 months and at 6·25 per cent. for 4 months.

Example 2

If the "previous year" was the year ending 31st March 1940, the allowance will be computed at the rate of 5 per cent. for 5 months and at 6·25 per cent. for 7 months.

If the assessment for 1940-41 has been closed, then where that assessment has been made at nil due to the depreciation allowances not being entirely wiped off, the additional allowance due for that year under this paragraph will be

deducted from the profit assessable for the year 1941-42 and in any other case an adjustment will be made in the tax demand for 1941-42 equal to the difference in the tax demand which would have resulted if the additional allowance had been given in the assessment for 1940-41. **Div. 2 R. 8**

2. *The rate of depreciation on second-hand ocean-going steamers and motor vessels.*—In the case of a steamer or motor vessel purchased second-hand the normal allowance will be computed by reference to the actual cost of the steamer or the motor vessel concerned to the new owner and its reasonable expectation of life at the date of purchase. The new rate and the method of computation will have effect from the assessment for 1941-42 and not from any earlier assessment.

The following scale is to be used to determine the fractional part of the cost of a steamer or motor vessel that is to be allowed year by year as depreciation for income tax purposes, *except* where at the date of purchase the steamer or the motor vessel concerned is more than 24 years old. In such a case the rate of depreciation to be allowed will be decided by the Central Board of Revenue on the facts of each case :—

Age at date of purchase		Expectation of life	Fractional part of cost to be allowed as depreciation each year
Over years	Under years	Years	
0	1	20	1/20
1	2	19	1/19
2	3	18	1/18
3	4	17	1/17
4	5	16	1/16
5	6	15	1/15
6	7	14	1/14
7	8	13	1/13
8	9	12	1/12
9	10	11	1/11
10	11	10	1/10
11	12	9	1/9
12	13	9	1/9
13	14	8	1/8
14	15	8	1/8
15	16	7	1/7
16	17	7	1/7
17	18	7	1/7
18	19	6	1/6
19	20	6	1/6
20	21	5	1/5
21	22	5	1/5
22	23	4	1/4
23	24	4	1/4

Div. 2 R. 8 The scale given above having been applied to find the normal allowance, the extra allowance for war-time conditions will be given on the lines laid down in paragraph 1 above. As the increased allowance for a new vessel is one-fourth of the normal 5 per cent. of cost, the addition in the case of second-hand steamers or motor vessels is to be taken as ¼ of the normal allowance computed by application of the scale.

Example

A vessel 12 years old was purchased at the commencement of the 'previous year' to year of assessment 1937-38 for Rs. 5,00,000. According to the scale the 'expectation of life' at the date of its purchase second-hand was 9 years.

For the years of assessment 1941-42 onwards the depreciation allowance would be 1/9 of Rs. 5,00,000 = Rs. 55,555.

For years of assessment corresponding to previous years that are chargeable accounting periods for Excess Profits Tax purposes the war-time addition of ¼ referred to in paragraph 1 will be added.

3. *Depreciation on additions to ocean-going steamers and motor vessels which are treated as of a capital nature for income-tax purposes.*—Any expenditure which has been treated as capital for income-tax purposes (*e.g.*, the installation of refrigerating plant or the renewal of engines or boilers) will be added to the prime cost of the steamer or the motor vessel concerned for the purpose of computing depreciation allowance.

The annual allowance in respect of such expenditure will be calculated as follows:—

(*a*) if the expenditure is or was made before the expiration of the 20 years' estimated life of the steamer or the motor vessel, the normal allowance for it will be increased by such a sum as will exhaust or would have exhausted the expenditure over the remaining years of 20 years' estimated life;

Example

An addition of Rs. 60,000 was made to a vessel at the expiration of 17 years of its life. The normal allowance for the addition will be ⅓ of Rs. 60,000 = Rs. 20,000 for each of the remaining three years of the vessel's 20 years' estimated life.

(*b*) if the expenditure is or was incurred when the vessel is 20 years old or more, the allowance will be such a sum as will exhaust or would have exhausted the expenditure over the further estimated years of life that would be given by applying the table in paragraph 2 above, if for "age at date of purchase" there were substituted "age at date of the capital expenditure";

Example

An addition of Rs. 60,000 was made to a vessel 22 years old. The further estimated life of the vessel, according to the table in paragraph 2 is 4 years. The normal allowance for the addition will, therefore, be ¼ of Rs. 60,000 = Rs. 15,000 for each year of the further estimated life of the vessel.

(*c*) in respect of a vessel purchased second-hand, the normal allowance for the expenditure on additions to such a vessel will be increased by such a sum as will exhaust or would have exhausted the expenditure over the remaining years of the estimated life of the vessel given in the Table in paragraph 2 above;

Example

A vessel was over 8 years and below 9 years old when purchased second-hand so that its expectation of life at the date of purchase second-hand was 12 years. After the lapse of 7 years of this expectation of life an addition of Rs. 60,000 was made to it. The normal allowance for the addition will be 1/5 of Rs. 60,000 = Rs. 12,000 for each of the remaining five years of the expected life of the vessel.

The increased allowance so calculated will be allowed for the years of assessment 1941-42 onwards. The extra allowance for war-time conditions will also be given on the lines laid down in paragraph 1 above, but the aggregate allowances on the additions shall not exceed the cost thereof.

8A. to **9A.** *Omitted.*

10. All sums deducted in accordance with the provisions of section 18 of the Act shall be paid—

(*a*) in the case of deduction by or on behalf of Government on the same day ; and

(*b*) in all other cases within one week from the date of such deduction or the date of receipt of the chalan by the person making the deduction, as the case may be :

Provided that in cases falling under (*b*) the Income-tax Officer may, in special cases, and with the approval of the Inspecting Assistant Commissioner, permit an employer to pay the income-tax and super-tax deducted from any income chargeable under the head "Salaries" quarterly on June 15th, September 15th, December 15th and March 15th.

10A. The prescribed rate of exchange for the calculation of the value in rupees of any income chargeable under the head "Salaries" which is payable to the assessee out of India in sterling by or on behalf of Government shall be 1*s.* 6*d.* per rupee.

11. (1) In the case of income chargeable under the head "Salaries" where deduction is not made by or on behalf of Government, the person making the deduction shall forthwith send to the Income-tax Officer within whose jurisdiction the deduction is made (or where there is more than one Income-tax Officer having jurisdiction in the same area to the Income-tax Officer specified by the Commissioner of Income-tax) a statement in the following form :—

List of persons to whom salaries, pensions, annuities, gratuities, commissions, bonuses or any other sums chargeable to income-tax under section 7 of the Income-tax Act, 1922, have been paid during the month ended 19 with particulars of the amounts paid, the amounts due but not paid, and the income-tax and super-tax deducted.

Name of employer *Address*

Name of person responsible for paying the salary, etc. (if not the employer) *Address*

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1	Name of employee		
2	Amount of salary (or wages) paid during the month	Rs.	
3	Leave salary or allowance paid outside the taxable territories		
4	Date of payment		
5	Period for which the salary (or wages) was paid		
6	House-rent allowance paid	Rs.	
7	Value of rent-free quarters	Rs.	
8	Bonus, gratuity, fees, commissions, perquisites or other allowances, profits in lieu of or in addition to salary, payments from an unrecognised Provident fund, advances of salary, etc., and all other sums paid which are chargeable to income-tax (full details showing amount, date of payment, period for which due, etc., are to be given for each item separately)	Rs.	
9	Salary, bonus and all other sums, which were due to be paid during the month but were not actually paid (full details showing the amount, due date, period for which the amount was payable to be given for each item separately)	Rs.	Total of columns 2, 3, 6, 7, 8 and 9
10	For the month	Rs.	
11	Up to and including the month	Rs.	
12	Estimated total yearly income under the head "Salaries"	Rs.	
13	Income-tax	Pies Per Re.	Average rate of
14	Super-tax	Pies Per Re.	

Amount paid or deducted in respect of Provident, Superannuation or other funds		Amount paid or deducted in respect of insurance premiums		Net amount on which tax has been deducted		Amount of tax deducted								Date on which tax deducted has been paid to the credit of Govt.	Remarks
						Income-tax		Surcharge on income-tax		Super-tax		Surcharge on super-tax			
For the month	Upto and including the month	For the month	Upto and including the month	For the month	Upto and including the month	During the month	Upto and including the month	During the month	Upto and including the month	During the month	Upto and including the month	During the month	Upto and including the month		
15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30
Rs. a.	Rs. a.	Rs. a.	Rs. a.	Rs. a.	Rs. a.	Rs. a.	Rs. a.	Rs. a.	Rs. a.	Rs. a.	Rs. a.	Rs. a.	Rs. a.		
					Total										

I being the person responsible for paying the above salaries, etc. do hereby declare that the above particulars are correct.

Signature

Date

NOTES.—1. Columns 11, 16, 18, 20, 22, 24, 26 and 28. The total amount of salaries received, the amounts paid or deducted in respect of provident, superannuation or other funds, insurance premiums, and the amount of tax deducted from the beginning

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of the financial year or from such month after the 1st day of April as the employee entered the service of the employer should be shown.

2. In the case of an employee who has left the service of the employer, progressive totals of the amounts paid, rebate allowed and tax deducted should be shown upto the last month of the year.

3. The address of the former employer of a new employee and the address of the new employer of an outgoing employee should be given in the remarks column wherever practicable.

(2) In cases where the trustees of an approved Superannuation Fund repay any contributions to an employee during his lifetime but not at or in connection with the termination of his employment they shall forthwith send to the Income-tax Officer specified in sub-rule (1) a statement giving the following particulars :—

1. Name and address of the employee.
2. The period for which the employee has contributed to the Superannuation Fund.
3. The amount of contributions repaid—
   (*a*) Principal ;
   (*b*) Interest.
4. The average rate of deduction of income-tax during the preceding three years.
5. Amount of income-tax deducted on repayment.

(3) The statements referred to in sub-rules (1) and (2) shall be drawn up in separate sections one for each place where the employees are stationed and an additional extract of those sections relating to employees who are residing outside the jurisdiction of the Income-tax Officer referred to above shall also be sent with the statement.

(4) The person responsible for making the deduction, or the trustees, as the case may be, shall pay the amount of tax so deducted to the credit of the Central Government by remitting it within the time prescribed in Rule 10 into the Government Treasury or office of the Reserve Bank of India or of the Imperial Bank of India accompanied by an income-tax chalan, blank copies of which shall be supplied by the Income-tax Officer for the purpose : provided that on receipt of the above-mentioned statement the Income-tax Officer may, if so expressly requested and if satisfied that there is sufficient ground for the request, himself have the necessary chalan prepared and forwarded to the person concerned, who shall thereupon pay the amount to the credit of the Central Government in the manner above described.

11A. In the case of income chargeable under the head "Salaries" where deduction is not made by or on behalf of Government, the Commissioner of Income-tax may, in his discretion, notwithstanding anything contained in Rule 10 and sub-rule (1) of Rule 11, permit an employer to pay income-tax and super-tax on the income of his employees chargeable under the head "Salaries" in a

lump sum every month based on the average amount of income-tax and super-tax deductible every month from such income and to submit at the end of the year to the Income-tax Officer within whose jurisdiction the deduction is made (or where there is more than one Income-tax Officer having jurisdiction in the same area to the Income-tax Officer specified by the Commissioner of Income-tax) a statement giving the following particulars :— **Div. 2 R. 11A**

1. Name of employee.
2. Amount of salary (or wages) paid during the year.
3. Leave salary or allowance, if any, paid outside the taxable territories
4. Period for which the salary (or wages) was paid.
5. House rent allowance paid during the year.
6. Value of rent-free quarters for the year.
7. Bonus, gratuity, fees, commissions, perquisites or other allowances, profits in lieu of or in addition to salary, payments made from an unrecognised provident fund, advances of salary, etc., and all other sums paid which are chargeable to income-tax. (Full details showing the total amount paid during the year, periods for which the payments were made are to be given separately for each item.)
8. Salary, bonus and all other sums which were due to be paid during the year but which were not actually paid. (Full details showing the amount, the due date, and the period for which the amount was payable are to be given for each item separately.)
9. Total of items 2, 3, 5, 6, 7 and 8 above.
10. Yearly amounts paid or deducted in respect of provident or superannuation or other funds and life insurance premiums (give details).
11. Net amount upon which tax has been deducted during the year.
12. Total amount of income-tax deducted during the year (surcharge to be shown separately).
13. Total amount of super-tax deducted during the year (surcharge to be shown separately).

Such permission which will hold good till it is withdrawn will be granted by the Commissioner of Income-tax subject to the following conditions and any other condition which he may prescribe—

(*a*) The employer shall at the end of each year calculate the income-tax and super-tax due on the income under the head "Salaries" paid to his employees during the year and adjust any excess or deficiency in the month of March, such adjustment being made within the terms of the proviso to sub-section (2) of section 18 of the Act, *i.e.*, adjustments should be made in each individual case and any excess recovered from one employee should not be adjusted against any short recovery from another.

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(*b*) In the case of an employee leaving service the particulars mentioned above should be sent forthwith to the Income-tax Officer.

12. In the case of income chargeable under the head "Interest on securities," where the deduction is not made by or on behalf of Government the person responsible for paying the interest shall at the time of deduction send to the Income-tax Officer concerned a statement showing the following particulars :—

(*i*) Description of securities,

(*ii*) Numbers of securities,

(*iii*) Dates of securities,

(*iv*) Amounts of securities,

(*v*) Period for which interest is drawn,

(*vi*) Amount of interest,

(*vii*) Amount of tax, and

(*viii*) Date on which tax was deducted.

12A. The person making deductions in accordance with sub-sections (3A), (3B), (3C), (3D) and (3E) of section 18 shall at the time of deduction send to the Income-tax Officer concerned a statement showing the following particulars :—

1. Name and address of the non-resident on whose behalf the tax is deducted.

2. The date of payment and in the case of dividend the date of the declaration of the dividend by the company.

3. The nature of payment.

4. The amount paid :—

   (*i*) in the case of interest the rate per cent per annum, the period for which the interest has been paid and the amount on which the interest has been computed,

   (*ii*) in the case of dividend the gross amount before deducting income-tax along with the basis of the computation of the gross amount.

5. The amount of income-tax deducted.

6. The amount of super-tax deducted.

12B. The person responsible for making deductions under sub-sections (3), (3A), (3B), (3C), (3D) and (3E) of section 18 shall pay the amount of tax so deducted to the credit of the Central Government by remitting it within the time prescribed in Rule 10 into the Government Treasury or office of the Reserve Bank of India or of the Imperial Bank of India accompanied by an income-tax chalan, blank copies of which will be supplied by the Income-tax Officer for the purpose : 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 chalan.

12C. An application for a certificate under the proviso to sub-section (3) of section 18 of the Act shall be made in the following form :—

Application for a certificate under the proviso to section 18(3) of the Indian Income-tax Act, 1922

To

The Income-tax Officer,
. . . Circle,
. (*Address*).

Sir,

I ..... of do hereby declare that my total income, / total world income, computed in accordance with the provisions of the Indian Income-tax Act, 1922 (XI of 1922), during the year ending on the 31st day of March ..... was less than the minimum liable to income-tax / amounted to Rs. .

I therefore pray that a certificate may be issued to the person responsible for paying the interest on securities, particulars of which are given in the Schedule hereto not to deduct income-tax / to deduct income-tax at the rate of .. pies in the rupee at the time of payment of such interest.

Signature

Address

I hereby declare that I am resident and ordinarily resident / resident but not ordinarily resident / non-resident in the taxable territories and that what is stated in this application is correct.

Date *Signature*

Address

SCHEDULE

(*i*) Description of securities.
(*ii*) Numbers of securities.
(*iii*) Dates of securities.
(*iv*) Amounts of securities.
(*v*) Dates on which the amounts are payable.

13. The certificate to be furnished under section 18(9) of the Act by any person paying interest chargeable to income-tax on any security of the Central Government or of a State Government shall be in the following form :

Certificate of deduction of income-tax from the interest on bearer / promissory bonds.

notes/stock certificates/Subsidiary General Ledger Account Balance.
Dividend No. of coupon
Draft No.

Div. 2 Rr. 13-13A

[1]Number of receipt for interest.

Certified that Rupees ... being income-tax at the rate of..... .... pies per rupee has been deducted from the interest coupons for Rs. ..... presented in the interest for payment by the draft receipt of this date, from Rupees . . ...being the amount of interest on bearer Government promissory notes/stock certificates/Subsidiary General Ledger Account Balance bonds for Rupees .. of the . . per cent loan of ... said to be the property of standing in the name of .

Signature

(*Name of the office paying interest*) (*Designation of the official paying interest*)

The 19 .

(To be signed by the claimant.)

I hereby declare that the bearer Government promissory notes/stock certificates/Subsidiary General Ledger Account Balance bonds on which interest, as above specified, has been received were my own property and were in the possession of at the time when income-tax was deducted.

Signature

Date

N.B.—1. The inappropriate words to be struck out.

2. The securities or in the case of a Subsidiary General Ledger Account Balance, a certificate from the Public Debt Office or office of the Reserve Bank of India concerned, to be produced, when required, in support of any claim.

NOTE.—This certificate should not be returned to the Public Debt Office. In case you desire to claim a refund of the whole or any part of the tax deducted, as shown above, on the ground that your total annual income is below the taxable limit or is less than that to which the maximum rate of income-tax applied, you should send this certificate to the Income-tax Office direct with an application in the prescribed form obtainable from that office.

13A. The certificate[2] to be furnished under section 18(9) of the Act by the person paying any interest on debentures or other securities for money

[1]This number should also appear in the interest cages on the back of the Government promissory notes.

[2]In the case of bearer debentures or bonds a certificate under section 18(9) shall only be given if the recipient of the interest declares the name and address of the real owner of the security at the time of receiving the interest.

issued by or on behalf of a local authority or a company shall be in the following form :— **Div. 2 Rr. 13A-13B**

Name of Local Authority/Company

Address

To[1]

Name and address of payee[2]

I/We hereby certify that Rs. being income-tax at the rate of pies per rupee has been deducted from Rs. being the amount of interest at the rate of per cent per annum due[3] on debentures Nos. of Rs. each of the[4] and that it has been or will, within the prescribed period, be paid by me/us to the Central Government at .

Superintendent, Public Debt Office, or Principal Officer or Managing Agents.

19 .

(To be signed by claimant.)

I hereby declare that the securities on which interest as above specified has been received, were my own property and were in the possession of at the time when income-tax was deducted.

Signature

Date

(*N.B.*—The securities to be produced when required in support of any claim.)

13B. The certificate to be furnished under section 18(9) of the Act by the person paying any interest not being "interest on securities" or any other sum chargeable under the provisions of the Act shall be in the following form :—

Name of person making payment

Nature of payment

Address

To

Name and address of payee

I/We hereby certify that Rupees being income-tax at the rate of pies per rupee and Rupees being super-tax at the

[1] Name and address of the owner of security should be given here. In the case of bearer debentures or bonds, these particulars are to be given as declared by the payee concerned.

[2] To be completed only in the case of bearer debentures or bonds.

[3] The date on which interest is payable.

[4] Here enter the name of the local authority or the company.

Div. 2 Rr. 13B-13D

rate applicable have been deducted from Rupees being the amount paid on[1] at the rate of per cent per annum for the period[2] computed on the amount of Rupees[3] .

Signature of person making payment

NOTE.—In the case of payers other than the Reserve Bank of India and the Banks scheduled under the Reserve Bank of India Act, the receipt for payment of the tax to the credit of the Central Government (*i.e.*, counterfoil of the income-tax chalan) shall be furnished along with the certificate ; in the case of the Banks referred to above, a certificate by the Bank specifying the number and date of the chalan with which the tax has been credited to the Central Government and the amount which included the particular sum shall be furnished.

13C. The certificate to be furnished under section 18(9) of the Act by the person paying any dividend on shares registered in the Reserve Bank of India shall be in the following form :—

Name of person paying dividend

Address

To

Name of payee

I hereby certify that Rs. being income-tax at the rate of pies per rupee has been deducted from Rs. being the amount of dividend at the rate of per cent per annum due[4] on share of Rs. and that it has been or will, within the prescribed period, be paid by the bank to the Central Government at .

Governor,

Reserve Bank of India

19 .

(To be signed by claimant.)

I hereby declare that the shares on which dividend as above specified has been received, were my own property and were in the possession of at the time when income-tax was deducted.

Signature

Date

(*N.B.*—The share certificates to be produced when received in support of any claim.)

13D. The effective arrangements (referred to in sub-section (3D) of section 18 and in section 19A of the Act) to be made by a company for the declaration and

[1] This applies to payment of interest only.

[2] Here specify the period for which interest has been paid.

[3] Here state the amount on which interest has been computed.

[4] Here specify the date on which refund is payable.

payment of dividends in the territory of India and for the deduction of super-tax therefrom shall be as follows :— **Div. 2 Rr. 13D-14**

(1) The share register of the company for all shareholders shall be regularly maintained at its principal place of business within the territory of India (*a*) from a date not later than the 1st day of November, 1948, in respect of the assessment for the year ending on the 31st day of March, 1949, and (*b*) in respect of any assessment for any subsequent 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 year for assessment and for declaring *any* dividends in respect thereof shall be held only at a place within the territory of India.

(3) The dividends declared, if any, shall be payable only within the territory of India to all shareholders.

14. The certificate to be furnished by the principal officer of a company under section 20 shall be in the following form :—

I. *In cases where the dividends declared in respect of a year of account have been paid wholly out of the profits of the year.*

NAME OF COMPANY. . . . . .

ADDRESS OF COMPANY . . . . . .

DATE . . . . . .

Warrant for Rs. . . . . (in words and figures or, if the certificate is crossed by an entry in words stating that the amount of dividend is under the next multiple of Rs. 50 above that amount, in figures only), being dividend/dividend and bonus at the rate of Rs. . . . . (*please see footnote* 1) (in words and figures) per share for the period from . . . . . to . . . . . /during the year ending on the. . . . . day of . . . . 19 (*Footnote* 2) on . . . shares in the company during the said period/on . . . 19. (date) in the name of . . . . .

This dividend was declared at the. . . . . (*Footnote* 3) meeting held on the . . . . . 19 . . . to consider the accounts of the company for the year ending . . . . . .

I/We certify—

1. that the total amount of dividends declared at the aforesaid meeting was Rs. . . . . .

2. that the details of the profits and gains of the company for the aforesaid year are as under :—

(*a*) amount not liable to be included in the total income of the company for income-tax purposes is—

(*i*) representing allowances due in the computation of income under the Income-tax Act in excess of the provision, if any, made in the company's accounts (*Footnote* 4) ;

FOOTNOTES :

1. Where tax is deducted by the company, give the gross amount of dividend, the tax deducted and the net dividend paid.
2. Here enter the No. and description of the shares.
3. Here enter the No. and nature of the meeting.
4. Here must be entered the allowances due or received in the income-tax assessment for the relevant years such as depreciation allowance, development rebate, etc., in excess of amount, if any, provided therefor in the company's accounts for the relevant year.

Div. 2 R. 14

(*ii*) amount assessable to agricultural income-tax by any State Government;

(*iii*) other amounts exempt from income-tax (*Footnote* 5);

(*b*) amount liable to be included in total income for income-tax purposes but on which income-tax is not payable, *viz.*,

(*i*) amount on which income-tax or agricultural income-tax was paid or is payable in Pakistan;

(*ii*) other amounts exempt from income-tax (*Footnote* 6);

(*c*) amount liable to be included in total income on which income-tax is payable;

(*d*) total profits and gains;

(*e*) percentage of taxable profits to total profits [percentage of entry (*c*) to entry (*d*)]

(*f*) percentage of agricultural profits to total profits [percentage of entry 2(*a*) (*ii*) to entry (*d*)];

3. that the percentage stated in paragraph 2(*e*) therefore represents the percentage of the said dividend which has come out of taxable profits;

4. that income-tax on the profits and gains of the company chargeable to income-tax [item (*c*) of paragraph (2)] has been/will be paid by me/us to the Government of India;

5. that agricultural income-tax (including super-tax) chargeable at the rate or rates of . .. on agricultural profits [item (*a*)(*ii*) of paragraph (2)] has been/will be paid by me/us to the State Government.

Signature .....

Date .....

For ..... *Ltd.*

(TO BE SIGNED BY THE CLAIMANT)

I hereby certify that the dividends above mentioned relate to shares which were my own property at the time when the dividend was declared/during the period from . . . . to. . .. . on . . . . . (date) and were in the possession of .. . .

Signature . ...

Date . . . .

FOOTNOTES:

5. Here exempt incomes such as capital gains made during the years 1st April, 1948, to 31st March, 1956, should be shown.

6. Here incomes exempted under section 15C of the Act, tax-free interest on securities should be shown.

II. *In cases where the dividends declared in respect of a year of account have been paid partly out of the profits of that year, and partly out of the accumulated profits or reserves of earlier years, or wholly out of such accumulated profits or reserves.* **Div. 2 R. 14**

NAME OF COMPANY ... .

ADDRESS OF COMPANY .....

DATE .....

Warrant for Rs.. ..... (in words and figures or, if the certificate is crossed, by an entry in words stating the amount of dividend is under next multiple of Rs. 50 above that amount, in figures only), being dividend/ dividend and bonus at the rate Rs. .....(*Footnote* 1) in words and figures) per share for the period from .....to. ..... /during the year ending on the day of 19. on (*Footnote* 2) shares in this company during the said period on .. 19 (date) ..... 19 (date).

This dividend was declared at the (*Footnote* 3) meeting held on the ..... 19 .. to consider the accounts of the company for the year ending .....

I/We certify—

1. that the total amount of dividends declared at the aforesaid meeting was Rs. ..... made of

(*i*) Rs. ..... out of the profits of the year ending ..... and/or

(*ii*) Rs. (*Footnote* 4) out of the reserves formed out of the profits or accumulated profits of the earlier—

Year ending .....

Year ending .....

Year ending .....

FOOTNOTES :

1. Where tax is deducted by the company, give the gross amount of dividend, the tax deducted and the net dividend paid.
2. Here enter the No. and description of the share.
3. Here enter the No. and the nature of the meeting.
4. For the allocation to different accounting years of funds utilised by the company for distribution of dividends, the total dividends should first be allocated to the amount appropriated therefor from the profits and gains of the accounting year in respect of which the dividend is declared, and the balance, if any, should be deemed to have come out of the whole or such portion of the undistributed profits (reserves and accumulated profits) of one or more years immediately preceding that year of account as would be just sufficient to cover the amount in excess.

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2. that the details of the profits and gains of the Company for the years referred to in sub-paragraphs (*i*) and (*ii*) of paragraph 1 of this certificate are as under :—

	Profits and gains of the year ending	Profits and gains of the earlier years		
		Year ending	Year ending	Year ending
	1	2	3	4
(*a*) Amount not liable to be included in the total income of the company for income-tax purposes is :				
(*i*) representing allowances due in the computation of income under the I. T. Act in excess of the provision, if any, made in the company's accounts,				
(*ii*) amount assessable to agricultural income-tax by a State Government,				
(*Footnote* 5)				
(*iii*) other amounts exempt from income-tax.				
(*Footnote* 6)				
(*b*) Amount liable to be included in total income for I. T. purposes but on which income-tax is not payable, *viz.*,				
(*i*) amount on which income-tax or agricultural income-tax was paid or is payable in Pakistan,				
(*ii*) other amounts exempt from income-tax.				
(*Footnote* 7)				
(*c*) Amount liable to be included in total income on which income-tax is payable.				
(*d*) Total profits and gains.				
(*e*) Percentage of taxable profits to total profits [percentage of entry (*c*) to entry (*d*)].				
(*f*) Percentage of agricultural profits to total profits [percentage of entry 2 (*a*)(*ii*) to entry (*d*)].				
(*g*) Amounts appropriated out of the profits for declaring the dividends of which this dividend forms a part (as per para. 1 above).				
(*h*) Taxable profits included in the amount of the dividends stated at (*g*) [*i.e.*, the percentage stated at (*e*) of the dividend amount at (*g*)].				
(*i*) Sum total of the taxable profits of all the relevant accounting years included in the amount of the dividends declared at the said meeting.				

FOOTNOTES :

5. Here must be entered the allowances due or received in the income-tax assessment for the relevant years such as depreciation allowance, development rebate, etc., in excess of amount, if any, provided therefor in the company's accounts for the relevant year.
6. Here exempt incomes such as capital gains made during the years 1st April, 1948, to 31st March, 1956, should be shown.
7. Here incomes exempted under section 15C of the Act, tax-free interest on securities should be shown.

NOTE.—In the case of interim dividends, insert the word "interim" before the word dividend wherever it occurs in the form of the warrant. In such a case, the paragraphs 1 and 2 of the certificate need not be filled in but when the final dividend is declared the certificate should cover the necessary information regarding the interim dividend also.

3. that as stated in paragraph 2(*h*), the taxable profits of the company utilised by the company for declaring dividends of Rs. . . . . at the said meeting, amount to Rs.. ... . or..... . . . . percentage of the said dividends; **Div. 2 Rr. 14-15**

4. that income-tax on the profits and gains of the company chargeable to income-tax item (*c*) of paragraph (2) has been/will be paid by me/us to the Government of India;

5. that agricultural income-tax (including super-tax) chargeable at the rate or rates of .. . .. . on agricultural profits [item *a*(*ii*) of paragraph 2] has been/will be paid by me/us to the State Government.

Signature .. . .

Date . . ..

For .. .. *Ltd.*

(TO BE SIGNED BY THE CLAIMANT)

I hereby certify that the dividend above mentioned relate to shares which were my own property at the time when the dividend was declared/during the period from . . . to ..... ./on .. . . . .(date) and were in the possession of . .. .

Signature . ...

Date..... ... .

15. The returns for Government officers under section 21 of the Act shall be prepared and submitted to the Income-tax Officer by:—

(*a*) Civil Audit Officers for all gazetted officers and others who draw their pay from audit 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 countersignature; and also for all pensioners who draw their pensions from treasuries.

(*c*) Heads of Civil or Military offices for 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.

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(*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 head-quarters post office they are in charge and (*iii*) pensioners drawing their pensions through post offices; Head Record Clerks, Railway Mail Service, for themselves and all the staff whose pay is drawn in their establishment pay bills; the Disbursing Officers in the case of the Administrative and the Audit offices.

(*f*) Controllers of Military Accounts (including Divisional Military Supply, Marine, Field and War Controllers) for all gazetted military officers under their audit.

(*g*) Disbursing officers in the Military Works Department for themselves and their establishments.

(*h*) Chief Accounts officers or Chief Auditors of Railways concerned for all railway employees under their audit.

16. The minimum income under the head 'Salaries' referred to in section 21, shall be Rs. 600 *less* than the maximum amount which, if it were the total income, will be exempt from tax in the hands of an individual in the financial year in which the income is earned:

Provided that in any case in which any tax was deducted at source from payments chargeable under the head 'Salaries', full particulars thereof shall be included in the form of return prescribed in rule 17.

17. The return to be delivered to the Income-tax Officer under section 21 of the Indian Income-tax Act, 1922, to be made within thirty days from the 31st day of March in each year by the prescribed person in the case of every Government office, and the principal officer or the prescribed person in the case of every local authority, company or other public body or association and every private employer shall be made and verified in the following form:—

Designation of { *Government office* / *Local authority* / *Company* / *Public body* / *Association* / *Private employer* } ....

Serial No.	Name of employee	Postal address of residence	Appointment or nature of employment	Total amount of salary, wages, annuity or pension paid during the year ending on 31st March 19	Period for which items in column 5 were paid	House allowance paid during the year	Value of rent-free quarters for the year
1	2	3	4	5	6	7	8

Bonus, gratuity, fees, commission, perquisites or other allowances, profits in lieu of salary, payments made at or in connection with the termination of employment, advances of salary, etc., and all other sums paid which are chargeable to income-tax. (Full details showing the total amount paid during the year, period for which the payments were made are to be given separately for each distinct class of payment)	Salary, bonus, all other sums which were due to be paid during the year but which were not actually paid. (Full details showing the amount, the due date, & the period for which the amount was payable are to be given)	Total of columns 5, 7, 8, 9 & 10	Yearly amounts paid in respect of Provident Fund Contributions and Life Insurance premiums (give details)	Net amount upon which tax has been deducted during the year	Total amount of income-tax deducted during the year	Remarks
9	10	11	12	13	14	15

I certify that the above statement contains a complete list of the total amount paid by. . .

(*a*) to all persons who were receiving or to whom was due income on the 31st day of March 19 . . , at the rate of Rs. .. . per annum (being Rs. 600 less than the taxable minimum prescribed by the Finance Act for the year) or who have received or to whom was due during the year ended on that day not less than the aforesaid sum in respect of salary, wages, annuity, gratuity, fees, commission, perquisites or profits in lieu of or in addition to salary or wages, advances of salary, payments at or in connection with retirement or any other sums chargeable to income-tax under the head "salaries", and

(*b*) to all persons from whose salaries any tax was deducted during the year ended on the 31st day of March 19....

I further certify that all the particulars furnished above are correct.

Dated .. .. Signature of person by whom the return is delivered at . . . . Designation.

18. The manner of publication under sub-section (1) of section 22 other than publication in the press shall be as follows :—

On or before the 1st May in each year, a notice, in the form set out in Rule 18A, or as near thereto as may be, requiring every person whose income exceeds the maximum amount which is not chargeable to income-tax, to furnish a return of his total income and total world income during the previous year in the prescribed form and verified in the prescribed manner shall be affixed to the notice board of the Income-tax Officer's office and (with the consent of the State Government where such consent is necessary and has been obtained) of as many of the following offices or Courts situated within the Income-tax Officer's jurisdiction as may be practicable :—

1. All Head Post Offices and Sub-Post Offices.
2. Courts of the District Judges, Subordinate Judges, Civil Judges and District Munsiffs.

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3. Offices of the District Collectors, Deputy Commissioners, Divisional and Sub-Divisional Officers, Tahsildars, Mamlatdars and Mukhtiarkars.

18A. The notice referred to in Rule 18 shall be in the following form :—

NOTICE

INCOME-TAX

Return of total income and of total world income of the previous year for assessment in the year commencing on the 1st April 19 .

In pursuance of sub-section (1) of section 22 of the Indian Income-tax Act, 1922 (XI of 1922), notice is hereby given to EVERY PERSON whose total income during the previous year exceeded the maximum amount not chargeable to income-tax to furnish within sixty-five days from the date of publication of this Notice a return in the prescribed form and verified in the prescribed manner setting forth (along with such other particulars as are required by the said form) his total income and total world income during that year.

The return so furnished should include in section G of the prescribed form particulars of any income which is not considered liable to tax for any reason whatsoever. If this is done, the income so disclosed would not be considered to have been concealed even if in the assessment it is held to be liable to tax.

A copy of the prescribed form will be supplied free of charge to any person who, for the purpose of complying with this Notice, applies at my office.

Every such person is further advised to ensure compliance with this notice, since any failure without reasonable cause to furnish the return required by this Notice, or failure without reasonable cause to furnish it within the time allowed or in the manner required will entail a penalty not exceeding one and a half times the tax payable.

Income-tax Officer

Address

Date of publication of the Notice.

19. The return of total income and total world income required under sub-section (1) or sub-section (2) or sub-section (2A) of section 22 shall be—

(*i*) in the case of persons, not being a company, who derive income from any sources, which include business, profession or vocation, in Form A annexed to this Rule,

(*ii*) in the case of persons, not being a company, who derive income from sources other than business, profession or vocation (not being a share as a partner in a firm or as a member of an association of persons), in Form B annexed to this Rule, and

(*iii*) in the case of a company in Form C annexed to this Rule,

and shall in each case be verified in the manner indicated in the appropriate form.

FORM A

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Form of Return of total income and total world income under sub-section (1) or sub-section (2) or sub-section (2A) of section 22 of the Indian Income-tax Act, 1922, for persons who derive income from sources INCLUDING BUSINESS, PROFESSION OR VOCATION

Income-tax year 19 -19

Name . .. .

Status (whether individual, H.U.F. etc.) . . ..

Address : (Office). ....

(Residence) ... .

PART I

Statement of total income and total world income during the previous year ended . .. .

Source of income	Amount of income, profits and gains	Tax already charged or deducted at source	Remarks *Section A* : If income arose in a Part B State or a merged territory, mention that State or territory, and if it was received in or remitted to another State that other State *Section B* : State if the income arose in a foreign country, mentioning the name of that country
1	2	3	4
SECTION A :—Income which accrued or arose or was received in the first instance or is deemed to have accrued or arisen or been received IN THE TAXABLE TERRITORIES in the previous year. 1. SALARIES The total amount as detailed in Part VI-A of the Return. Please attach a detailed statement of monthly salary and tax deducted therefrom.			

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Source of income	Amount of income, profits and gains	Tax already charged or deducted at source	Remarks *Section A* : If income arose in a Part B State or a merged territory, mention that State or territory, and if it was received in or remitted to another State that other State *Section B* : State if the income arose in a foreign country, mentionmg the name of that country
1	2	3	4
2. INTEREST ON SECURITIES Interest from which tax has been deducted. Interest which is tax free.			
3. PROPERTY Total amount as detailed in Part VI of the Return.			
4. BUSINESS, PROFESSION OR VOCATION (*a*) Profits & gains as detailed in Part IV of this Return. (*b*) Share of profits in a registered firm. (*c*) Share of profits in an unregistered firm or association of persons.			
5. OTHER SOURCES Dividends from Companies (gross amount). Interest on Mortgages, Loans, Fixed Deposits, Current a/cs., etc. Ground Rents. Sources other than those mentioned above (give details).			
6. CAPITAL GAINS Capital Gains as detailed in Part VII.			
TOTAL OF SECTION A			

Source of income	Amount of income, profits and gains	Tax already charged or deducted at source	Remarks *Section A* : If income arose in a Part B State or a merged territory, mention that State or territory, and if it was received in or remitted to another State that other State *Section B* : State if the income arose in a foreign country, mentioning the name of that country
1	2	3	4
SECTION B :—Income which accrued or arose OUTSIDE THE TAXABLE TERRITORIES in the previous year. (*a*) NON-RESIDENTS should show full income (except foreign capital gains) in this Section as forming part of their TOTAL WORLD INCOME. (*b*) Persons ORDINARILY RESIDENT in the taxable territories should show their income after deducting upto a maximum of Rs. 4,500/- out of income not remitted to the taxable territories (if the amount deducted is less than Rs. 4,500/- it should be specified). (*c*) Persons RESIDENT BUT NOT ORDINARILY RESIDENT should show only so much of the income (*i*) as arises from a business controlled in India or a profession or vocation set up in India, subject to the statutory deduction of upto Rs. 4,500 as above, or (*ii*) as is actually received in or remitted to the taxable territories out of any other income. [Please state for each item the heading of the income as in Section A.] (1) .... (2) . . . . (3)			
TOTAL OF SECTION B			

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Source of income	Amount of income, profits and gains	Tax already charged or deducted at source	Remarks *Section A* : If income arose in a Part B State or a merged territory, mention that State or territory, and if it was received in or remitted to another State that other State *Section B* : State if the income arose in a foreign country, mentioning the name of that country
1	2	3	4
SECTION C :—NOT APPLICABLE IN THE CASE OF NON-RESIDENTS. REMITTANCES TO THE TAXABLE TERRITORIES out of income which accrued or arose prior to the previous year and after the 31st day of March, 1933, or in the case of Capital Gains which accrued or arose after the 31st March, 1946, and before the 1st April, 1948. (If the remittance is out of Capital Gains chargeable to tax, please state this specifically.) (*a*) Out of income which accrued or arose in the State of Jammu and Kashmir, and (*i*) was not taxed, (*ii*) was included in the total income but not actually charged to tax, (*iii*) was included in the total income and also charged to tax in the appropriate year. [Item (*iii*) is to be mentioned only but not to be added in the total income.] (*b*) Out of income which accrued or arose in a Part B State or a merged territory or an erstwhile Indian State, and (*i*) was not taxed, (*ii*) was included in the total income but not actually charged to tax,			

Source of income	Amount of income, profits and gains	Tax already charged or deducted at source	Remarks *Section A* : If income arose in a Part B State or a merged territory, mention that State or territory, and if it was received in or remitted to another State that other State *Section B* : State if the income arose in a foreign country, mentioning the name of that country
1	2	3	4
(*iii*) was included in the total income and also charged to tax but at a lower rate, (*iv*) was included in the total income and also charged to tax at full rate in the appropriate year. [Items (*iii*) and (*iv*) are to be mentioned only but not to be added in the total income.]			
(*c*) Out of income which accrued or arose in Chandernagore, and (*i*) was not taxed, (*ii*) was included in the total income and also charged to tax at full rate in the appropriate year. [Item (*ii*) is to be mentioned only but not to be added in the total income.]			
(*d*) Out of income which accrued or arose in a foreign country, and (*i*) was not charged to tax on account of the deduction of upto Rs. 4,500 or otherwise, (*ii*) was charged to tax. [Item (*ii*) is to be mentioned only but is not to be added in the total income.]			
TOTAL OF SECTION C			
TOTAL OF SECTIONS A, B & C			

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Sources of income	Particulars of items	Amount Rs.
SECTION D :—IN THIS SECTION SHOULD BE SHOWN ANY INCOME, PROFITS OR GAINS WHICH ARE NOT INCLUDED IN SECTIONS A, B & C, BUT WHICH THE ASSESSEE CLAIMS TO BE NOT TAXABLE FOR ANY REASON SUCH AS— that the receipt is of a casual nature not arising from any business, profession, vocation or occupation; or that it is exempt under any other provision of the Indian Income-tax Act; or that it is not accounted for in the books of accounts due to non-adjustment of accounts; or for any other reasons	1. 2. 3. 4. 5. 6. 7. 8.	
TOTAL OF SECTION D		

PART II

Statement of sums included in total income in respect of which income-tax and/or super-tax is not payable

	Rs.
1. Earned income allowance under section 15A.	
2. Sums deducted from salary payable by the Government and to which the first proviso to sub-section (1) of section 7 of the Act applies.	
3. Sums paid to effect an insurance on the life of the assessee or on the life of his wife or her husband or in respect of a contract for a deferred annuity; or, in the case of a Hindu Undivided Family, to effect an insurance on the life of any male member or his wife. (The original receipt or certificate from the insurance company must be attached.)	
4. Contributions to (*a*) any provident fund to which the Provident Funds Act, 1925, applies, (*b*) a recognised provident fund, or (*c*) a provident fund established under the Employees' Provident Funds Act, 1952, or (*d*) an approved superannuation fund, and (*e*) interest on contributions to a recognised provident fund and accumulations thereof which is exempt from income-tax.	
5. Share in the income of an unregistered firm or an association of persons where the tax has already been paid or is payable on the income by the firm or association (give details).	
6. Interest on tax free securities.	
7. Income from new industrial undertakings exempt under section 15-C.	
8. Donations to charitable institutions and funds exempt under section 15-B.	
9. Other items, if any.	
TOTAL	

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PART III

Particulars required under sub-section (5) of section 22 of the Income-tax Act, 1922

(*a*) *To be completed in the case of all persons engaged in a business, profession or vocation. In the case of a firm this section should be completed on the firm's return and not on the individual partner's return.*

Name in which the business, profession or vocation is carried on, or in the case of a firm the firm's name.

Principal place of the business, profession or vocation.

Location and style of each branch :

1.
2.
3.

(*b*) *To be completed in the case of firms only*

Name of each partner	Residential Address	Extent of share including interest on capital, salary, commission or other remuneration, if any (Give details)

(*c*) *To be completed in case where the assessee is a partner in a firm or firms*

Name and address of the firm	Name of each partner including the assessee	Address of each partner	Share of each partner including interest on capital, salary, commission, or other remuneration, if any (Give details)

PART IIIA

Particulars to be filled up in the case of Hindu undivided families only

Name of family ... .

Address . .. .

Serial No.	Names of members of the family at the end of the previous year who were entitled to claim partition	Relationship	Age at the end of the previous year	REMARKS
1	2	3	4	5

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PART IV

Particulars of income from Business, Profession or Vocation

(1) In the case of a firm this part is to be completed in the firm's Return and not in the partners' individual returns.

(2) If the accounts are kept on the mercantile accountancy or book profit system a copy of the manufacturing accounts or Trading Accounts, the Profit and Loss Accounts and Balance Sheet or trial balances must be attached to this Return. If the accounts are kept on any other system the name or description of the system is to be stated and a copy of any statement which corresponds to the Profit and Loss Account and Balance Sheet in the mercantile accountancy system must be attached to this Return. If the accounts are audited, a statement of audited accounts should accompany the return but if the accounts are not audited, a statement showing how profits have been computed from the books of account maintained for the business should accompany the return.

PROFIT OR LOSS AS PER PROFIT AND LOSS ACCOUNT (OR STATEMENT CORRESPONDING TO THE PROFIT AND LOSS ACCOUNT) FOR THE YEAR ENDED 19 .	Rs.	Rs.
Add—(*Deduct* if the above figure is a loss) any profits or gains not included in arriving at the above figure of profit		
Reserve for bad debts		
Sums carried to reserve for provident or other funds ..		
Interest credited to reserves or other funds		
Expenditure of the nature of charity or presents ..		
Expenditure of the nature of capital		
Income-tax or super-tax		
Drawings of proprietor or partners		
Salaries and commission paid or credited to the proprietor or partners		
Interest allowed to proprietor or partners on capital or loan accounts		
Rental value of the property owned and occupied ..		
Cost of additions to or alterations, extensions or improvements to any of the assets of the business, profession or vocation		

	Rs.	Rs.
Losses sustained in former years and charged in arriving at the figure of profit (or loss) shown above		
Depreciation of any of the assets of the business, profession or vocation or development rebate in respect of any of the assets of the business		
Private or personal expenses		
Any other expenditure not incurred wholly and exclusively for the purpose of the business, profession or vocation. (Give details)		
Any other expenditure which is not allowable under the provisions of Section 10 of the Income-tax Act, 1922. (Give details)		
Deduct— Any profit or gain, capital sums or other items credited in arriving at the above figure of profit which are not taxable or upon which tax has already been paid. (Give details)		
Interest on security tax free		
Depreciation allowable as shown in Part V of this Return		
Development rebate allowable as shown in Part V of this Return		
Scientific Research Expenditure (if not charged in arriving at the above figure of profit)— (*i*) Any expenditure (not in the nature of capital expenditure) laid out or expended on scientific research related to the business. (Give details)..		
(*ii*) Any sum paid to an approved scientific research association or an approved university, college or other institution for such scientific research, for research in social science or for statistical research related to the class of the business carried on. (Give details)		
(*iii*) Any expenditure of a capital nature on scientific research related to the business admissible under Section 10(2)(*xiv*) of the Act. (Give details) ..		
Any other allowable expense which has not been charged in arriving at the above figure of profit. (Give details).		
Net profit (or loss)—Carried to Part I of the Return ..		

N.B.—The above particulars should be given for each separate and distinct business, profession or vocation.

PART V

DEPRECIATION

Statement of particulars prescribed under proviso (*a*) of section 10(2)(*vi*) of the Income-tax Act, 1922, and of the amount of depreciation allowable

Description of building, machinery, plant or furniture	*Written down value as at the beginning of the accounting period	†Capital expenditure during the year for additions, alterations, improvements and extensions	Date from which the additions, etc. referred to in Col. 3 are used for the purposes of the business, profession or vocation	If a plant or machinery has been sold or discarded during the year, show in this Column the *written down value as at the beginning of the accounting period and the value for which it is actually sold or its scrap value	Amount on which depreciation is now allowable	Prescribed rate per cent	No. of days ..... double shifts & triple shifts (separately)	Depreciation claimed				
								Initial	Normal	Additional under clause (*vi-a*) of sub-section (2) of section 10	Extra shift allowance	Total
								Rs.	Rs.	Rs.	Rs.	Rs.
1	2	3	4	5	6	7	8	9				

NOTES.—*(1) In the case of ocean-going ships, particulars of "original cost" instead of those of the "written down value" should be furnished.
†(2) Capital expenditure on new machinery or plant or new building erected should be shown separately and in the remarks column against each such entry it should be indicated that initial depreciation is claimed.

PART V—*Contd.*

DEVELOPMENT REBATE UNDER SECTION 10(2)(*vi-b*)

Statement of particulars prescribed for the purposes of clause (*vi-b*) of section 10(2) of the Indian Income-tax Act, 1922, and of the amount of development rebate allowable

Description of new machinery and plant installed	Actual cost of new machinery and plant installed	Date of installation	Rate per cent	Amount of rebate	REMARKS
1	2	3	4	5	6

PART VI—Income from Property

Serial No.	1																								
Name of village or town where the property is situated	2																								
Name of street and number of property	3																								
When the property is situated in a Municipality, the name of the person in whose name the property stands in the Municipal Records	4																								
Whether the property is occupied by the owner or let	5																								
If you are a part owner of the property state the amount of your share and the rights of the other part owners and their shares	6																								
Annual Municipal valuation of the property	7																								
Full annual rent payable by the tenant if the property is let	8																								
Adjustments to arrive at annual value	Tenant's burdens (including rates) borne by owner—Give details	9																							
	Owner's burdens (including rates) borne by tenants—Give details	10																							
	In the case of property occupied by the owner for his own residence, half of the annual value or Rs. 1,800 whichever is less	10A																							
Annual letting value after adjusting for (Cols. 9, 10 and 10A	11																								
Deductions from annual value to arrive at net annual value	One-sixth of the annual letting value as in Col. 11	12																							
	Premium paid to insure the property against damage or destruction	13																							
	Interest on a mortgage or charge, or any annual charge on the property or interest on capital borrowed for acquiring, constructing, repairing, renewing, or reconstructing property	14																							
	Ground rent paid for the property	15																							
	Land revenue paid for the property	16																							
	Collection charges paid	17																							
	Amount claimed on account of the property remaining vacant	18																							
	Period during which the property remained vacant	19																							
	Total of Cols. 12 to 18	20																							
Net annual value assessable after deducting Col. 20 from Col. 11	21																								
Total income from property *Less*—(*i*) Claim for irrecoverable rent (give details separately). (*ii*) Income from property erected during the period 1st April, 1946, to 31st March, 1956, which is exempt for a period of two years from the date of completion. (Date of completion to be specified). Net income from property carried to Part I of the Return—																									

PART VIA
Salaries

	1	2	3	4	5	6	7	8	9	10	Deduction claimed in respect of: 11	12	13	14	15
	Name and address of employer	Total amount of salary, wages, annuities, pensions, gratuities, commission, bonus, fees and profits in lieu of salary and wages due to be paid, whether received or not	Total amount of periodical cash allowances like house rent allowance, entertainment allowance etc. (Give details)	Employer's contributions to recognised provident fund and interest credited to assessee's account in the fund	Value of rent free accommodation or value of any concession in rent for the accommodation provided by the employer: (Give basis of computation). State also whether accommodation is furnished or unfurnished	Where a free conveyance has been provided by the employer, estimated value of the perquisite (Give details)	Remuneration paid by employer for domestic and personal services provided to the assessee (Give details)	Value of free or concessional passages on home leave, and other travelling abroad provided by the employer (Give details)	Estimated value of any other benefit or amenity provided by the employer, free of cost or at concessional rate, not included in the preceding columns (Give details)	Total Salary (Total of columns 2 to 9)	Amounts included in column 10 which are claimed to be non-taxable u/s 4(3) (*vi*), 4(3) (*vi-a*), 4(3) (*xii*), 4(3) (*xiv-a*), 4(3) (*xv*) or under clause (*iii*) of Explanation 1 to Sec. 7 (1) or Sec. 7(2) (*i*). Give details	Entertainment allowance u/s. 7(2) (*ii*)	Expenditure on own conveyance (giving details separately for running expenses and wear and tear claimed) u/s. 7(2) (*ii-a*)	Total of columns 11 to 13	Net income chargeable under the head 'salaries' transferred to Part I of the Return (column 10 minus 14)

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PART VII
Particulars of Capital Gains

Statement A

Serial Number	Description of asset	Date on which asset became property of the assessee	Date of the transaction of sale, exchange etc.	Full value of the consideration for which the sale, exchange, etc. was made	Deductions					Amount of capital gains, (col. 5 minus col. 9). If amount is a loss (col. 9—col. 5) enter the figure marking it distinctly as 'loss', or *in red ink*
					Actual cost (or in cases applicable, the value which should be deemed to be the actual cost) (See col. 10 of Part B)	Expenditure incurred solely in connection with the sale, exchange, etc.	Option or other moneys received and retained by the assessee on any previous occasion	Total of actual cost & other deductions admissible (Total of cols. 6 & 7 diminished by col. 8)		
1	2	3	4	5	6	7	8	9		10
				Rs.	Rs.	Rs.	Rs.	Rs.		Rs.

* 1. House properties (with description regarding size, locality, etc.)

Net Capital gains/loss : Rs

Deduct

1. Exemptions claimed :
   (*a*) Capital gains from house property exempt u/s 12B(4)(*a*) Rs
   (*b*) Capital gains from house property re-invested in new house property exempt u/s 12B(4)(*b*) Rs
2. Capital losses brought forward from earlier years (mention relevant assessment years) : Rs

Net capital gain/loss transferred to item 6 Sec. A of Part I of this return

* 2. Other assets (with description regarding nature of properties).

* NOTE.—Show separately (1) and (2).

Statement B

1	2	3	4	5	6	7	8	9	10	11	12
Description of asset	Date on which asset became property of the assessee	Manner in which asset became property of assessee, (here state whether by purchase, or construction at own expense, inheritance, succession, gift, family partition, etc. as may be applicable)	Where asset became property of assessee by purchase or construction at own expense		Where asset became property of assessee otherwise than in manner referred to in Col. 4, 5, as applicable				Expenditure of a capital nature, if any, supported by adequate proof, incurred by the assessee in making any addition or alteration in respect of which no allowance is admissible under sections 8, 9, 10 and 12		
			Actual cost of the asset to the assessee on the date mentioned in column 2	Where the asset became the property of the assessee before 1st January, 1954, the fair market value of asset on that date	Actual cost of the asset to previous owner, and if it cannot be ascertained the fair market value at the date on which asset became property of previous owner (mention the date also)	Fair market value of asset on 1st January, 1954, if asset became property of previous owner before 1st January, 1954	Fair market value of asset on the date of gift to assessee (in case asset became property of assessee by gift before 1st April, 1956)	Fair market value of asset on the date of family partition (in case asset became property of assessee on family partition, whether before or after 1st April, 1956)	Before 1-1-54 or upto the date of gift, if earlier than 1-4-56 or up to the date of partition, as applicable	After the relevant date mentioned in the preceding column	Actual cost, or the value deemed to be the actual cost (indicating how it is arrived with reference to the figures in the preceding columns) transferred to col. 6 Part A

Div. 2 R. 19 I declare that to the best of my knowledge and belief the information given in the above statements in Parts I, II, III, IIIA, IV, V, VI, VIA and VII of this Return is correct and complete, that the amounts of total income and total world income and other particulars shown are truly stated and relate to the year ended..... .....

and that no other income accrued, arose or was received by *me / the firm / the family / the association / the local authority

during the said year and that *I / the firm / the family / the association had during the said year no other sources of income.

I further declare that *I / the firm / the family / the association was resident and ordinarily resident / resident but not ordinarily resident / not resident in the taxable territories during the previous year for which the Return is made.

‡ I also declare that I was a married individual/widow/widower / an unmarried individual at the end of the previous year for which the Return is made.

Date *Signature* . . ..

Address . . †*Status* . ....

---

* NOTE 1.—The alternatives which are not required in the declaration should be scored out.

† NOTE 2.—The declaration shall be signed—

(*a*) in the case of an individual by the individual himself;

(*b*) in the case of a Hindu Undivided Family by the Manager or *Karta*;

(*c*) in the case of a local authority by the principal officer;

(*d*) in the case of a firm by a partner; and

(*e*) in the case of any other association by a member of the association.

‡ NOTE 3.—This declaration should be made in the case of an individual.

THE SIGNATORY SHOULD SATISFY HIMSELF THAT THE RETURN IS CORRECT AND COMPLETE IN EVERY RESPECT BEFORE SIGNING THE VERIFICATION.

Form of return of particulars to be furnished under section 38 of the Indian Income-tax Act, 1922 (*See paragraph* 4 *of notice*) **Div. 2 R. 19**

(*a*) To be filled up in the case of *Firms* only. If this information is already given in Part III of the Return under section 22 of the Indian Income-tax Act, 1922, write "*See* Part III" in this section.

Firm's Name

Address

Names of partners	Address

Representative's Signature

Date

Designation

(*b*) To be filled up in the case of *Hindu Undivided Families* only.

Name of family

Address

Serial No.	Names of adult members of family	Address
	Manager or *Karta*	
1		
2		
3		
4		
5		
6		

Representative's Signature

Date

Designation

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(*c*) To be filled up by *Trustees, Guardians or Agents* only.

Names and addresses of persons for whom the assessee is the trustee, guardian or agent		Whether trustee, guardian or agent
Name	Address	

Signature

Date *Designation*

Address

(*d*) Statement of the names and addresses of all persons to whom assessee has paid in the previous year rent, interest, commission, royalty or brokerage or any annuity (not being an annuity taxable under the head "Salaries") amounting to more than four hundred rupees and particulars of all such payments.

Serial No.	Name and address of the person to whom the payment was made	Nature of payment	Amount paid	Date of payment	Whether paid in cash or by book adjustment
1					
2					
3					

Signature

Date

Address

(*e*) (To be filled in by any dealer, broker or agent or any person concerned in the management of stock or commodity exchange.) **Div. 2 R. 19**

Statement of the names and addresses of all persons to whom the assessee has paid in the previous year :—

(1) any sum or aggregate sums in excess of two thousand rupees where the payment represents "differences" paid in settlement of contracts without actual delivery of stocks or commodities ; and

(2) any sum or aggregate sums in excess of ten thousand rupees where the payment represents sale price in connection with the sale, exchange, or transfer of capital assets or on whose behalf or from whom the assessee has received any such sum and particulars of all such payments and receipts.

[The question whether any payments or receipts relate to "capital assets" is a matter to be decided by the Income-tax Officer. The person required to make the statements should treat all payments and receipts as pertaining to capital assets.]

(Separate statements should be made for payments and receipts.)

Serial No.	Name and address of the person to whom the payment was made or on whose behalf or from whom the payment was received	Particulars of the transaction in connection with which the payment was made or received	Amount paid or received	Date of payment or receipt	Whether paid or received in cash or by book adjustment
1					
2					
3					
4					

Signature

Date

Address

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FORM B

Form of Return of total income and total world income under sub-section (1) or sub-section (2) or sub-section (2A) of section 22 of the Indian Income-tax Act, 1922, for persons who derive income from sources OTHER THAN BUSINESS, PROFESSION OR VOCATION (not being a share as a partner in a firm or as a member in an association of persons)

Income-tax Year 19 –19

Name. . . . . .

Status (whether individual, H.U.F. etc.) . . . . . .

Address (Office) . . . . . .

(Residence) . . . . . .

PART I

Statement of total income and total world income during the previous year ended

Source of income	Amount of income, profits and gains	Tax already charged or deducted at source	Remarks *Section A :* If income arose in a Part B State or a merged territory, mention that State or territory, and if it was received in or remitted to another State that other State *Section B :* State if the income arose in a foreign country, mentioning the name of that country
1	2	3	4
SECTION A.—Income which accrued or arose or was received in the first instance or is deemed to have accrued or arisen or been received IN THE TAXABLE TERRITORIES in the previous year. 1. SALARIES The total amount as detailed in Part V of the Return. Please attach a detailed statement of monthly salary and tax deducted therefrom.			

Source of income	Amount of income, profits and gains	Tax already charged or deducted at source	Remarks *Section A :* If income arose in a Part B State or a merged territory, mention that State or territory, and if it was received in or remitted to another State that other State *Section B :* State if the income arose in a foreign country, mentioning the name of that country
1	2	3	4
2. INTEREST ON SECURITIES Interest from which tax has been deducted. Interest which is tax free.			
3. PROPERTY Total amount as detailed in Part IV of the Return.			
4. BUSINESS, PROFESSION OR VOCATION (*a*) Share of profits in a registered firm. (*b*) Share of profits in an unregistered firm or association of persons.			
5. OTHER SOURCES Dividends from Companies (gross amount). Interest on Mortgages, Loans, Fixed Deposits, Current a/cs., etc. Ground Rents. Sources other than those mentioned above (give details).			
6. CAPITAL GAINS Capital Gains as detailed in Part VI.			
TOTAL OF SECTION A			

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Source of income	Amount of income, profits and gains	Tax already charged or deducted at source	Remarks *Section A :* If income arose in a Part B State or a merged territory, mention that State or territory, and if it was received in or remitted to another State that other State *Section B :* State if the income arose in a foreign country, mentioning the name of that country
1	2	3	4
SECTION B.—Income which accrued or arose OUTSIDE THE TAXABLE TERRITORIES in the previous year. (*a*) NON-RESIDENTS should show full income (except foreign capital gains) in this Section as forming part of their TOTAL WORLD INCOME. (*b*) Persons ORDINARILY RESIDENT in the taxable territories should show their income after deducting upto a maximum of Rs. 4,500/- out of income not remitted to the taxable territories (if the amount deducted is less than Rs. 4,500/- it should be specified.) (*c*) Persons RESIDENT BUT NOT ORDINARILY RESIDENT should show only so much of the income (*i*) as arises from share in a firm or association of persons whose business is controlled in India or profession or vocation is set up in India ; (*ii*) as is actually received in or remitted to the taxable territories out of any other income. [Please state for each item the heading of the income as in Section A.] (1) (2) (3)			
TOTAL OF SECTION B			

Source of income	Amount of income, profits and gains	Tax already charged or deducted at source	Remarks *Section A :* If income arose in a Part B State or a merged territory, mention that State or territory, and if it was received in or remitted to another State that other State *Section B :* State if the income arose in a foreign country, mentioning the name of that country
1	2	3	4
SECTION C.—NOT APPLICABLE IN THE CASE OF NON-RESIDENTS. REMITTANCES TO THE TAXABLE TERRITORIES out of income which accrued or arose prior to the previous year and after the 31st day of March, 1933, or in the case of Capital Gains which accrued or arose after the 31st March, 1946, and before the 1st April, 1948. (If the remittance is out of Capital Gains chargeable to tax, please state this specifically.) (*a*) Out of income which accrued or arose in the State of Jammu & Kashmir, and (*i*) was not taxed, (*ii*) was included in the total income but not actually charged to tax, (*iii*) was included in the total income and also charged to tax in the appropriate year. [Item (*iii*) is to be mentioned only but not to be added in the total income.] (*b*) Out of income which accrued or arose in a Part B State or a merged territory or an erstwhile Indian State, and (*i*) was not taxed, (*ii*) was included in the total income but not actually charged to tax, (*iii*) was included in the total income and also charged to tax but at a lower rate, (*iv*) was included in the total income and also charged to tax at full rate in the appropriate year.			

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Source of income	Amount of income, profits and gains	Tax already charged or deducted at source	Remarks *Section A :* If income arose in a Part B State or a merged territory, mention that State or territory, and if it was received in or remitted to another State that other State. *Section B :* State if the income arose in a foreign country, mentioning the name of that country
1	2	3	4
[Items (*iii*) and (*iv*) are to be mentioned only but not to be added in the total income.] (*c*) Out of income which accrued or arose in Chandernagore, and (*i*) was not taxed, (*ii*) was included in the total income and also charged to tax at full rate in the appropriate year. [Item (*ii*) is to be mentioned only but is not to be added in the total income.] (*d*) Out of income which accrued or arose in a foreign country, and (*i*) was not charged to tax on account of the deduction of upto Rs. 4,500 or otherwise, (*ii*) was charged to tax. [Item (*ii*) is to be mentioned only but is not to be added in the total income.]			
TOTAL OF SECTION C			
TOTAL OF SECTIONS A, B & C			

Sources of income	Particulars of items	Amount Rs.
SECTION D.—IN THIS SECTION SHOULD BE SHOWN ANY INCOME, PROFITS OR GAINS WHICH ARE NOT INCLUDED IN SECTIONS A, B & C, BUT WHICH THE ASSESSEE CLAIMS TO BE NOT TAXABLE FOR ANY REASON SUCH AS :—	1. 2. 3. 4.	
that the receipt is of a casual nature not arising from any business, profession, vocation or occupation or that it is exempt under	5.	

Sources of income	Particulars of items	Amount Rs.
any other provision of the Indian Income-tax Act; or	6.	
that it is not accounted for in the books of accounts due to non-adjustment of accounts; or	7.	
for any other reason.	8.	
TOTAL OF SECTION D		

PART II

Statement of sums included in total income in respect of which income-tax and/or super-tax is not payable

	Rs.
1. Earned income allowance under Section 15A.	
2. Sums deducted from salary payable by the Government and to which the first proviso to sub-section (1) of Section 7 of the Act applies.	
3. Sums paid to effect an insurance on the life of the assessee or on the life of his wife or her husband or in respect of a contract for a deferred annuity, or, in the case of a Hindu Undivided Family, to effect an insurance on the life of any male member or his wife. (The original receipt or certificate from the insurance company must be attached.)	
4. Contributions to (*a*) any provident fund to which the Provident Funds Act, 1925, applies, (*b*) a recognised provident fund, or (*c*) a provident fund established under the Employees' Provident Funds Act, 1952, or (*d*) an approved superannuation fund, and (*e*) interest on contributions to a recognised provident fund and accumulations thereof which is exempt from income-tax.	
5. Share in the income of an unregistered firm or an association of persons where the tax has already been paid or is payable on the income by the firm or association (give details).	
6. Interest on tax free securities.	
7. Share of income from new industrial undertakings exempt under section 15-C.	
8. Donations to charitable institutions and funds exempt under section 15-B.	
9. Other items, if any.	
TOTAL	

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PART III

Particulars required under sub-section (5) of section 22 of the Income-tax Act, 1922

If you are a partner in a firm, furnish the particulars required below :—

Name and address of the firm	Name of each partner including the assessee	Residential address of each partner	Share of each partner including interest on capital, salary, commission or other remuneration, if any (give details)

PART IIIA

Particulars to be filled up in the case of Hindu undivided families only

Name of family . .

Address . ...

Serial No.	Names of members of the family at the end of the previous year who were entitled to claim partition	Relationship	Age at the end of the previous year	Remarks
1	2	3	4	5

PART IV—Income from Property

Serial No.	1	
Name of village or town where the property is situated	2	
Name of street and number of property	3	
When the property is situated in a Municipality, the name of the person in whose name the property stands in the Municipal registers	4	
Whether the property is occupied by the owner or let	5	
If you are a part owner of the property state the amount of your share and the names of the other part owners and their shares	6	
Annual Municipal valuation of the property	7	
Full annual rent payable by the tenant if the property is let	8	
Adjustments to arrive at annual value	Tenant's burdens (including rates) borne by owner—Give details	9
	Owner's burdens (including rates) borne by tenants—Give details	10
	In the case of property occupied by the owner for his own residence, half of the annual value or Rs. 1,800 whichever is less	10A
Annual letting value after adjusting for Cols. 9, 10 and 10A		11
Deductions from annual value to arrive at net annual value	One-sixth of the annual letting value as in Col. 11	12
	Premium paid to insure the property against damage or destruction	13
	Interest on a mortgage or charge, or any annual charge on the property or interest on capital borrowed for acquiring, constructing, repairing, renewing, or reconstructing property	14
	Ground rent paid for the property	15
	Land revenue paid for the property	16
	Collection charges paid	17
	Amount claimed on account of the property remaining vacant	18
	Period during which the property remained vacant	19
	Total of Cols. 12 to 18	20
Net annual value assessable after deducting Col. 20 from Col. 11		21

Total income from property

Less—(i) Claim for irrecoverable rent (give details separately).

(ii) Income from property erected during the period 1st April, 1946, to 31st March, 1956, which is exempt for a period of two years from the date of completion. (Date of completion to be specified.)

Net income from property carried to Part I of the return—

PART V
Salaries

	1	2	3	4	5	6	7	8	9	10	Deduction claimed in respect of 11	12	13	14	15
	Name and address of employer	Total amount of salary, wages, annuities, pensions, gratuities, commission, bonus, fees and profits in lieu of salary and wages due to be paid, whether received or not	Total amount of periodical cash allowances like house rent allowance, entertainment allowance etc. (Give details)	Employer's contributions to recognised provident fund and interest credited to assessee's account in the fund	Value of rent free accommodation or value of any concession in rent for the accommodation provided by the employer. (Give basis of computation.) State also whether accommodation is furnished or unfurnished	Where a free conveyance has been provided by the employer, estimated value of the perquisite (Give details)	Remuneration paid by employer for domestic and personal services provided to the assessee (Give details)	Value of free or concessional passages on home leave, and other travelling abroad provided by the employer (Give details)	Estimated value of any other benefit or amenity provided by the employer, free of cost or at concessional rate, not included in the preceding columns (Give details)	Total Salary (Total of columns 2 to 9)	Amounts included in column 10 which are claimed to be non-taxable u/s. 4(3) (*vi*), 4(3) (*vi-a*), 4(3) (*xii*), 4(3) (*xii-a*), 4(3) (*xi*) or under clause (*iii*) of Explanation 1 to Sec. 7 (1) or Sec. 7(2) (*i*). Give details	Entertainment allowance u/s. 7(2) (*ii*)	Expenditure on own conveyance (giving details separately for running expenses and wear and tear claimed) u/s. 7(2) (*ii-a*)	Total of columns 11 to 13	Net income chargeable under the head 'salaries' transferred to Part I of the Return (column 10 minus 14)

PART VI

Particulars of Capital Gains

Statement A

Serial Number	Description of asset	Date on which asset became property of the assessee	Date of the transaction of sale, exchange, etc.	Full value of the consideration for which the sale, exchange, etc. was made	Deductions				Amount of capital gains, (col. 5 minus col. 9). If amount is a loss (col. 9—col. 5) enter the figure marking it distinctly as 'loss', or *in red ink*
					Actual cost (or in cases applicable, the value which should be deemed to be the actual cost) (See col. 10 of Part B)	Expenditure incurred solely in connection with the sale, exchange etc.	Option or other moneys received and retained by the assessee on any previous occasion	Total of actual cost & other deductions admissible (Total of cols. 6 & 7 diminished by col. 8)	
1	2	3	4 Rs.	5 Rs.	6 Rs.	7 Rs.	8 Rs.	9 Rs.	10 Rs.

* 1. House properties (with description regarding size, locality etc.)

* 2. Other assets (with description regarding nature of properties).

* NOTE.—Show separately (1) and (2).

Net Capital gains/loss : Rs

Deduct

1. Exemptions claimed :
   (*a*) Capital gains from house property exempt u/s 12B(4)(*a*) Rs
   (*b*) Capital gains from house property re-invested in new house property exempt u/s 12B(4)(*b*) Rs
2. Capital losses brought forward from earlier years (mention relevant assessment years): Rs .....

Net capital gain/loss transferred to item 6 Sec. A of Part I of this return . . .

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Statement B

1	Description of asset											
2	Date on which asset became property of the assessee											
3	Manner in which asset became property of assessee, (here state whether by purchase, or construction at own expense, inheritance, succession, gift, family partition, etc. as may be applicable)											
	Where asset became property of assessee by purchase or construction at own expense			Where asset became property of assessee otherwise than in manner referred to in Col. 4, 5, as applicable						Expenditure of a capital nature, if any, supported by adequate proof, incurred by the assessee in making any addition or alteration in respect of which no allowance is admissible under sections 8, 9, 10 and 12		
4	Actual cost of the asset to the assessee on the date mentioned in column 2			Actual cost of the asset to previous owner, and if it cannot be ascertained the fair market value at the date on which asset became property of previous owner (mention the date also)	Fair market value of asset on 1st January, 1954, if asset became property of previous owner before 1st January, 1954	Fair market value of asset on the date of gift to assessee (in case asset became property of assessee by gift before 1st April, 1956)	Fair market value of asset on the date of family partition (in case asset became property of assessee on family partition, whether before or after 1st April, 1956)	Before 1-1-54 or upto the date of gift, if earlier than 1-4-56 or up to the date of partition, as applicable	After the relevant date mentioned in the preceding column	Actual cost, or the value deemed to be the actual cost (indicating how it is arrived at with reference to the figures in the preceding columns) transferred to col. 6 Part A		
5	Where the asset became the property of the assessee before 1st January, 1954, the fair market value of asset on that date											

I declare that to the best of my knowledge and belief the information given in the above statements in Parts I, II, III, IIIA, IV, V and VI of this Return is correct and complete, that the amounts of total income and total world income and other particulars shown are truly stated and relate to the year ended . . and that no other income accrued, arose or was received by * me / the family / the association during the said year and that * I / the family / the association had during the said year no other sources of income. **Div. 2 R. 19**

I further declare that * I / the family / the association was resident and ordinarily resident / resident but not ordinarily resident / not resident in the taxable territories during the previous year for which the Return is made.

‡ I also declare that I was a married individual/widow/widower / an unmarried individual at the end of the previous year for which the Return is made.

Date. . . . . *Signature* . .

Address † *Status*.. . . ..

* NOTE 1.—The alternatives which are not required in the declaration should be scored out.

† NOTE 2.—The declaration shall be signed—

(*a*) in the case of an individual by the individual himself;

(*b*) in the case of a Hindu Undivided Family by the Manager or *Karta*;

(*c*) in the case of a local authority by the principal officer.

‡ NOTE 3.—This declaration should be made in the case of an individual.

THE SIGNATORY SHOULD SATISFY HIMSELF THAT THE RETURN IS CORRECT AND COMPLETE IN EVERY RESPECT BEFORE SIGNING THE VERIFICATION.

Form of return of particulars to be furnished under section 38 of the Indian Income-tax Act, 1922

(*See paragraph* 4 *of notice*)

(*a*) To be filled up in the case of *Hindu Undivided Families* only.
Name of family
Address

Serial No.	Names of adult members of family	Address
	Manager or *Karta*	
1		
2		
3		
4		
5		
6		

Representative's Signature

Date

Designation

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(*b*) To be filled up by *Trustees, Guardians or Agents* only.

Names and addresses of persons for whom the assessee is the trustee, guardian or agent		Whether trustee, guardian or agent
Name	Address	

Signature

Designation

Date

Address

(*c*) Statement of the names and addresses of all persons to whom assessee has paid in the previous year rent, interest, commission, royalty or brokerage or any annuity (not being an annuity taxable under the head "Salaries") amounting to more than four hundred rupees and particulars of all such payments.

Serial No.	Name and address of the person to whom the payment was made	Nature of payment	Amount paid	Date of payment	Whether paid in cash or by book adjustment
1					
2					
3					

Signature

Designation

Date

Address

FORM C

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Form of return of total income and total world income under sub-section (1) or sub-section (2) or sub-section (2A) of section 22 of the Indian Income-tax Act, 1922, for Companies only.

Income-tax year 19 -19 .....

Name of the Company .....

Address .....

PART I

Statement of total income and total world income during previous year ended.....

Source of income	Amount of income, profits and gains	Tax already charged or deducted at source	Remarks *Section A* : If income arose in a Part B State or a merged territory, mention that State or territory, and if it was received in or remitted to another State, that other State. *Section B* : State if the income arose in a foreign country, mentioning the name of that country.
1	2	3	4
SECTION A.—Income which accrued or arose or was received in the first instance or is deemed to have accrued or arisen or been received IN THE TAXABLE TERRITORIES in the previous year.			
1. INTEREST ON SECURITIES Interest from which tax has been deducted. Interest which is tax free. (The total amount as detailed in Part VIA of the Return.)			
2. PROPERTY Total amount as detailed in Part VI of the Return.			

Source of income	Amount of income, profits and gains	Tax already charged or deducted at source	Remarks *Section A* : If income arose in a Part B State or a merged territory, mention that State or territory, and if it was received in or remitted to another State, that other State. *Section B*: State if the income arose in a foreign country, mentioning the name of that country.
1	2	3	4
3. BUSINESS, PROFESSION OR VOCATION (*a*) Profits & gains detailed in Part IV of this Return. (*b*) Share of profits in a registered firm. (*c*) Share of profits in an unregistered firm or association of persons.			
4. OTHER SOURCES Dividends from companies (gross amount), Interest on Mortgages. Loans, Fixed Deposits, Current a/cs. etc. Ground Rents. Sources other than those mentioned above (give details).			
5. CAPITAL GAINS Capital Gains as detailed in Part VII.			
TOTAL OF SECTION A			
SECTION B.—Income which accrued or arose OUTSIDE THE TAXABLE TERRITORIES IN the previous year. (*a*) NON-RESIDENT COMPANIES should show full income (except foreign capital gains) in this section as forming part of their TOTAL WORLD INCOME. (*b*) COMPANIES RESIDENT in the taxable territories should show their income after deducting up to a maximum of Rs. 4,500/- out of income not remitted to the taxable territories (if the amount deducted is less than Rs. 4,500/- it should be specified).			
TOTAL OF SECTION B			

Source of income	Amount of income, profits and gains	Tax already charged or deducted at source	Remarks *Section A* : If income arose in a Part B State or a merged territory, mention that State or territory, and if it was received in or remitted to another State, that other State. *Section B* : State if the income arose in a foreign country, mentioning the name of that country.
1	2	3	4
SECTION C.—(NOT APPLICABLE IN THE CASE OF NON-RESIDENT COMPANIES). REMITTANCES TO THE TAXABLE TERRITORIES out of income which accrued or arose prior to the previous year and after the 31st day of March, 1933, or in the case of Capital Gains which accrued or arose after the 31st March, 1946, and before the 1st April, 1948. (If the remittance is out of Capital Gains chargeable to tax, please state this specifically.) (*a*) Out of income which accrued or arose in the State of Jammu and Kashmir, and (*i*) was not taxed, (*ii*) was included in the total income but not actually charged to tax, (*iii*) was included in the total income and also charged to tax in the appropriate year. [Item (*iii*) is to be mentioned only but not to be added in the total income.] (*b*) Out of income which accrued or arose in a Part B State or a merged territory or an erstwhile Indian State, and (*i*) was not taxed, (*ii*) was included in the total income but not actually charged to tax, (*iii*) was included in the total income and also charged to tax but at a lower rate,			

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Source of income	Amount of income, profits and gains	Tax already charged or deducted at source	Remarks *Section A* : If income arose in a Part B State or a merged territory, mention that State or territory, and if it was received in or remitted to another State, that other State. *Section B* : State if the income arose in a foreign country, mentioning the name of that country.
1	2	3	4
(*iv*) was included in the total income and also charged to tax at full rate in the appropriate year. [Items (*iii*) and (*iv*) are to be mentioned only but not to be added in the total income.] (*c*) Out of income which accrued or arose in Chandernagore, and (*i*) was not taxed, (*ii*) was included in the total income and also charged to tax at full rate in the appropriate year. [Item (*ii*) is to be mentioned only but not to be added in the total income.] (*d*) Out of income which accrued or arose in a foreign country, and (*i*) was not charged to tax on account of the deduction of upto Rs. 4,500 or otherwise. (*ii*) was charged to tax. [Item (*ii*) is to be mentioned only but is not to be added in the total income.]			
TOTAL OF SECTION C			
TOTAL OF SECTIONS A, B AND C			

Sources of income	Particulars of items	Amount Rs.
SECTION D.—IN THIS SECTION SHOULD BE SHOWN ANY INCOME, PROFITS OR GAINS WHICH ARE NOT INCLUDED IN SECTIONS A, B AND C BUT WHICH THE ASSESSEE CLAIMS TO BE NOT TAXABLE FOR ANY REASON SUCH AS—	1.	
that the receipt is of a casual nature not arising from any business, profession, vocation or occupation ; or	2.	
that it is exempt under any other provision of the Indian Income-tax Act ; or	3.	
that it is not accounted for in the books of account due to non-adjustment of account ; or for any other reason.	4.	
	5.	
	6.	
	7.	
	8.	
TOTAL OF SECTION D		

PART II

Statement of sums included in the income in respect of which income-tax and/or super-tax is not payable

1. Share in the income of an unregistered firm or an association of persons where the tax has already been paid or is payable on the income by the firm or association (give details).	
2. Interest on tax free securities.	
3. Share of income from new industrial undertakings exempt under Section 15C.	
4. Donations to charitable institutions and funds.	
5. Dividends from an Indian Company exempt under section 56A.	
6. Other items, if any.	

PART III

Particulars required under sub-section (5) of section 22 of the Income-tax Act, 1922, and in respect of subsidiary companies of the assessee company

(*a*) *Place where the Registered Office of the Company is situated* .. ..
(*b*) *Place where the Head Office of the Company is situated* . .. .
(*c*) *Location of each Branch*..... ....
(*d*) *Name and location of subsidiary companies, if any*..... ....
(*e*) *Where the Company is a partner in a firm or firms—*

Name and address of the firm	Name of each partner including the assessee	Address of each partner	Share of each partner including interest on capital, salary, commission or other remuneration, if any, (Give details)

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PART IV

Particulars of income from Business

If the accounts are kept on the mercantile accountancy or book profit system a copy of the manufacturing accounts or Trading Accounts, the Profit and Loss Accounts and Balance Sheet or trial balances must be attached to this Return. If the accounts are kept on any other system the name or description of the system is to be stated and a copy of any statement which corresponds to the Profit and Loss Account and Balance Sheet in the mercantile accountancy system must be attached to this Return.

A copy of the Auditor's Report and Certificate must also be attached.

PROFIT OR LOSS AS PER PROFIT AND LOSS ACCOUNT (OR STATEMENT CORRESPONDING TO THE PROFIT AND LOSS ACCOUNT) FOR THE YEAR ENDED 19 .	Rs.	Rs.
Add—(*deduct* if the above figure is a loss)		
Any profits or gains not included in arriving at the above figure of profit		
Reserve for bad debts		
Sums carried to reserve for provident or other funds ..		
Interest credited to reserves or other funds		
Expenditure of the nature of charity or presents ..		
Expenditure of the nature of capital		
Income-tax or super-tax		
Rental value of the property owned and occupied ..		
Cost of additions to or alterations, extensions or improvements to any of the assets of the business, profession or vocation		
Losses sustained in former years and charged in arriving at the figure of profit (or loss) shown above		
Depreciation of any of the assets of the business or development rebate		
Expenses and allowances charged in the accounts in respect of the items referred to in section 10 (4A) (details to be furnished in Part IVA)		

PROFIT OR LOSS AS PER PROFIT AND LOSS ACCOUNT (OR STATEMENT CORRESPONDING TO THE PROFIT AND LOSS ACCOUNT) FOR THE YEAR ENDED 19 .	Rs.	Rs.
Any other expenditure not incurred wholly and exclusively for the purpose of the business. (Give details)		
Any other expenditure which is not allowable under the provisions of Section 10. (Give details)		
Deduct—		
Any profit or gains, capital sums or other items credited in arriving at the above figure of profit which are not taxable or upon which tax has already been paid (Give details)		
Interest on security tax free		
Expenses and allowances referred to in section 10(4A) which the company claims as reasonable deduction under sub-section (2) of Section 10 having regard to the provisions of sub-section (4A) of that Section (details to be furnished in Part IVA)		
Depreciation allowable as shown in Part V of this Return		
Scientific Research Expenditure (if not charged in arriving at the above figure of profit)		
(*i*) Any expenditure (not in the nature of capital expenditure) laid out or expended on scientific research related to the business—(Give details)..		
(*ii*) Any sum paid to an approved scientific research association or an approved university, college or other institution for such scientific research. (Give details)		
(*iii*) Any expenditure of a capital nature on scientific research related to the business admissible under Section 10 (2) (*xiv*) of the Act—(Give details) ..		
Any other allowable expense which has not been charged in arriving at the above figure of profit—(Give details)		
Net Profit (or loss)—Carried to Part I of the Return ..		

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PART IV-A

Particulars of expenditure which has resulted directly or indirectly in the provision of any remuneration or benefit or amenity to directors and other persons having a substantial interest in the company and particulars of allowances claimed under the Act in respect of the Company's assets used by the persons referred to above wholly or partly for their own purposes or benefit [See Section 10(4A)]

1	2	3	4	5	6	7	8	9	10	11	12
Serial Number.	Name and address of the person (director or person) concerned in the management of the company beneficially owning shares carrying not less than 20 per cent. of the voting power in the company	Salary, remuneration due or special payments in cash made by the company to the person (Give details)	Value of rent free or concessional-rent quarters provided to him by the company for his occupation (Give basis of computation)	Value of furniture, appliances and amenities provided by the company for the household use of the person, free of cost, or at concessional rent (Give details)	Where a free conveyance has been provided to him by the company, description of the conveyance	Amount of entertainment allowances and other payments in the nature of entertainment allowances paid to him by the company, or amounts reimbursed to him by the company on account of expenses on entertainments	Travelling expenses met by company on account of his tours abroad—including fare and concessional passages on home leave (Give details)	Remuneration paid by company for domestic or personal services provided to him (Give details)	Value of any other benefits or amenities provided to him by the company free of cost or at concessional cost (not included in the preceding columns) (Give details)	Amount of depreciation and other allowances claimed by the company in this Return in respect of any of its assets which are wholly or partly used by him for his own private purposes throughout or for any part of the year (Give details of assets and amount claimed)	Remarks

PART V

DEPRECIATION

Statement of particulars prescribed under proviso (*a*) of Section 10 (2) (*vi*) of the Income-tax Act, 1922, and of the amount of depreciation allowable

Description of building, machinery, plant or furniture	* Written down value as at the beginning of the accounting period	†Capital expenditure during the year for additions, alterations, improvements & extensions	Date from which the additions, etc., referred to in Col. (3) are used for the purposes of the business, profession or vocation	If a plant or machinery has been sold or discarded during the year, show in this column the *written down value as at the beginning of the accounting period and the value for which it is actually sold or its scrap value	Amount on which depreciation is now allowable	Prescribed rate per cent	No. of days ‖ double shifts & triple shifts separately	Depreciation claimed				
								Initial	Normal	Additional under clause (*vi-a*) of sub-section (2) of section 10	Extra shift allowance	Total
								(Rs.)	(Rs.)	(Rs.)	(Rs.)	(Rs.)
1	2	3	4	5	6	7	8	9				

NOTES—*(1) In the case of ocean-going ships, particulars of "original cost" instead of those of the "written down value" should be furnished.
†(2) Capital expenditure on new machinery or plant or new building erected should be shown separately and in the remarks column against each such entry, it should be indicated that initial depreciation is claimed.

PART V—*Contd.*

DEVELOPMENT REBATE UNDER SECTION 10 (2) (*vi-b*)

Statement of particulars prescribed for the purposes of clause (*vi-b*) of Section 10 (2) of the Indian Income-tax Act, 1922, and of the amount of Development Rebate Allowance

Description of new machinery and plant installed	Actual cost of new machinery and plant installed	Date of installation	Rate per cent	Amount of rebate	Remarks
1	2	3	4	5	6

PART VI

Income from Property

Serial No.	Name of village or town where the property is situated	Name of street and number of property	When the property is situated in a Municipality, the name of the persons in whose name the property stands in the Municipal registers	Whether the property is occupied by the owner or let	If you are a part owner of the property state the amount of your share and the names of the other part owners and their shares	Annual Municipal valuation of the property	Full annual rent payable by the tenant if the property is let	Adjustments to arrive at annual value: Tenant's burdens (including rates) borne by owner—give details	Adjustments to arrive at annual value: Owner's burdens (including rates) borne by tenants—give details	Adjustments to arrive at annual value: 10A In the case of property occupied by the owner for his own residence; half of the annual value or Rs. 1,800 whichever is less	Annual letting value after adjusting for Cols. 9, 10 and 10A	Deductions from annual value to arrive at net annual value: One-sixth of the annual letting value as in Col. 11	Deductions from annual value to arrive at net annual value: Premium paid to insure the property against damage or destruction	Deductions from annual value to arrive at net annual value: Interest on a mortgage or charge, or any annual charge on the property or interest on capital borrowed for acquiring, constructing, repairing, renewing or reconstructing property	Deductions from annual value to arrive at net annual value: Ground rent paid for the property	Deductions from annual value to arrive at net annual value: Land revenue paid for the property	Deductions from annual value to arrive at net annual value: Collection charges paid	Deductions from annual value to arrive at net annual value: Amount claimed on account of the property remaining vacant	Deductions from annual value to arrive at net annual value: Period during which the property remained vacant	Deductions from annual value to arrive at net annual value: Total of Columns 12 to 18	Net annual value assessable after deducting Column 20 from Column 11
1	2	3	4	5	6	7	8	9	10	10A	11	12	13	14	15	16	17	18	19	20	21

Total income from property

Less—(i) Claim for irrecoverable rent (give details separately)

(ii) Income from property erected during the period 1st April, 1946, to 31st March, 1956, which is exempt for a period of two years from the date of completion. (Date of completion to be specified).

Net income from property carried to Part I of the return—

Div. 2
R. 19

PART VI-A

Interest on Securities (see Section 8 of the Income-tax Act)

		Gross amount of interest realised on securities during the year			Face value of the securities in respect of which the amount of interest shown in columns 1 and 2 was realised during the year			Amount of tax deducted at source in interest shown in column 2	Not to be filled in the case of a banking company					To be filled in the case of a banking company					Net amount of interest on securities carried to Part I of the Return			
																			In the case of a banking company		In the case of other companies	
		Tax free		Others	Tax free		Others		Amount of expenses incurred by the company for the purpose of realising the interest shown in columns 1 and 2	For interest on		Amount of any interest payable on money borrowed for the purpose of investment on securities mentioned in columns 3 and 4			Aggregate of the expenses of the company as are admissible under sub-section (2) of section 10, other than under clauses (*iii*), (*vi*), (*vi-a*), (*vi-b*), (*vii*), (*viii*), (*xi*), (*xii*), (*xiii*) and (*xiv*) (Give details)	Amount apportionable as sum reasonably expended by the company for the purpose of realising the interest shown in columns 1 and 2 (*See* clause (*a*) of Explanation to Section 8)	Total amount of interest on moneys borrowed for the purposes of the banking business or for investment in securities (including interest on deposits)	Amount of interest in column 13 apportionable as interest payable by the company on money borrowed for the purposes of investment in securities				

PART VII

Particulars of Capital Gains

Statement A

Serial Number	Description of asset	Date on which asset became property of the assessee	Date of the transaction of sale, exchange etc.	Full value of the consideration for which the sale, exchange, etc. was made	Deductions				Amount of capital gains, (col. 5 minus col. 9). If amount is a loss (col. 9—col. 5) enter the figure marking it distinctly as 'loss' or *in red ink*
					Actual cost (or in cases applicable, the value which should be deemed to be the actual cost) (See col. 10 of Part B)	Expenditure incurred solely in connection with the sale, exchange etc.	Option or other moneys received and retained by the assessee on any previous occasion	Total of actual cost & other deductions admissible (Total of cols. 6 & 7 diminished by col. 8)	
1	2	3	4 Rs.	5 Rs.	6 Rs.	7 Rs.	8 Rs.	9 Rs.	10 Rs.

* 1. House properties (with description regarding size, locality etc.)

* 2. Other assets (with description regarding nature of properties).

* NOTE.— Show separately (1) and (2).

Net capital gains/loss : Rs.

Deduct

1. Exemptions claimed :
   (*a*) Capital gains from house property exempt u/s 12B(4)(*a*) Rs.
   (*b*) Capital gains from house property re-invested in new house property exempt u s 12B(4)(*b*) Rs. .. . .
2. Capital losses brought forward from earlier years (mention relevant assessment years) : Rs. . .

Net capital gain/loss transferred to item 6 Sec. A of Part I of this return . .

Div. 2
R. 19

Statement B

	1	2	3	Where asset became property of assessee by purchase or construction at own expense		Where asset became property of assessee otherwise than in manner referred to in col. 4/5, as applicable					Expenditure of a capital nature, if any, supported by adequate proof, incurred by the assessee in making any addition or alteration in respect of which no allowance is admissible under sections 8, 9, 10 and 12		
	Description of asset	Date on which asset became property of the assessee	Manner in which asset became property of assessee, (here state whether by purchase, or construction at own expense, inheritance, succession, gift, family partition, etc. as may be applicable)	Actual cost of the asset to the assessee on the date mentioned in column 2	Where the asset became the property of the assessee before 1st January, 1954, the fair market value of asset on that date	Actual cost of the asset to previous owner, and if it cannot be ascertained the fair market value at the date on which asset became property of previous owner (mention the date also)	Fair market value of asset on 1st January, 1954, if asset became property of previous owner before 1st January, 1954	Fair market value of asset on the date of gift to assessee (in case asset became property of assessee by gift before 1st April, 1956)	Fair market value of asset on the date of family partition (in case asset became property of assessee on family partition, whether before or after 1st April, 1956)	Before 1st January, 1954, or upto the date of gift, if earlier than 1st April, 1956, or up to the date of partition, as applicable	After the relevant date mentioned in the preceding column	Actual cost, or the value deemed to be the actual cost (indicating how it is arrived at with reference to the figures in the preceding columns) transferred to col. 6, Part A
	1	2	3	4	5	6	7	8	9	10	11	12

I declare that to the best of my knowledge and belief the information given in the above statements in Parts I, II, III, IV, IVA, V, VI, VIA and VII of this Return is correct and complete, that the amounts of total income and total world income and other particulars shown are truly stated and relate to the year ended and that no other income accrued or arose or was received by *the company* during the said year and that *the company* had during the said year no other sources of income. **Div. 2 Rr. 19-20**

I further declare that *the company* was $\frac{\text{resident and ordinarily resident}}{\text{not resident}}$ in the taxable territories during the previous year for which the Return is made.

Date..... *Signature*. . . . .

Address ..... **Status* . . . .

*NOTE.—The declaration shall be signed by the Principal Officer of the Company.

THE SIGNATORY SHOULD SATISFY HIMSELF THAT THE RETURN IS CORRECT AND COMPLETE IN EVERY RESPECT BEFORE SIGNING THE VERIFICATION.

19A. The information which a person is required by the Income-tax Officer to furnish under sub-section (4) of section 22 of the Act 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, complete and other particulars shown therein are truly stated."

20. The Notice of Demand under section 29 shall be in the following form and shall be accompanied by the assessment form appended hereto : provided that the said assessment form need not accompany the notice in cases where a penalty has been levied subsequent to the assessment order and it is not practicable to include the amount of the penalty in the assessment form.

INCOME-TAX

Notice of Demand under section 29 of the Income-tax Act, 1922

To _____ **Status** _____
G. I. R. No. _____

This is to give you notice that for the assessment year _____ a sum of Rs. _____ (as specified in the attached form / being penalty under section(s) 18A (9), 25(2), 28, 44E and 44F) has been determined to be payable by you.

*2. *Whereas you have not paid the sum of* _____ *for the year* _____ */being the instalment(s) due on* _____ 19 _____ *under section 18A of the Act on the prescribed date* _____ *in accordance with the Notice of Demand served on you on* _____ *a penalty of Rs.* _____ *has been imposed upon you under section* 46(1) *of the Indian Income-tax Act*, 1922.

3. The amount is payable on or before the _____ to * Treasury Officer, / Sub-Treasury Officer, / Agent, Imperial Bank of India, / Reserve Bank of India, at _____ when, if paid, you will be granted a receipt. A chalan is enclosed for the purpose.

* Delete inappropriate paragraphs and words.

Div. 2 R. 20

4. If you do not pay the amount on or before the date specified above you will be liable under section 46(1) to a penalty which may be as great as the tax due from you.

5. *Unless the total amount due, including the penalty, is paid on or before* 19 *, you will be liable to a further penalty (and a warrant of distress may be issued for the recovery of the whole amount due with cost).*

6. The assessment has been made under sub-section (4) of section 23 of the Indian Income-tax Act, 1922, because you failed

* to make a return of your income under section 22(2) ;
to comply with a notice under sub-section (4) of section 22 ; but if you were prevented
to comply with a notice under sub-section (2) of section 23 ;

by sufficient cause from making the return or did not receive the notice(s) aforesaid, or had not a reasonable opportunity to comply, or were prevented by sufficient cause from complying, with the terms of the notice(s) you may apply to me, within one month from the receipt of this notice, under section 27, to cancel the assessment and proceed to make a fresh assessment.

7. If you intend to appeal against the $\frac{\text{assessment}}{\text{penalty}}$ you may present an appeal under sub-section (1) of section 30 of the Indian Income-tax Act, 1922, to the Appellate Assistant Commissioner of Income-tax at within 30 days of the receipt of this notice, in the form prescribed under sub-section (3) of section 30, duly stamped and verified as laid down in that form but no appeal will lie against an order under section 46(1) unless the tax has been paid.

Income-tax Officer

Address

Dated 19 .

Place

ASSESSMENT FORM

ASSESSMENT FOR 19 —19 , UNDER SECTION
OF THE INDIAN INCOME-TAX ACT, 1922

Name of assessee District or Area

Status

Whether resident and ordinarily resident / resident but not ordinarily resident / non-resident.

Number in General Index Register

* Delete inappropriate paragraphs and words.

Part I—Computation of income

Div. 2
R. 20

Detailed sources of income	Amount of income	Tax already deducted or otherwise paid at source (excluding payments under section 18A and section 23B)	
		Income-tax	Super-tax
	Rs.	Rs. As.	Rs. As.
Salaries			
Interest on securities—			
(*a*) Tax free			
(*b*) Taxed			
Property			
Business, profession or vocation			
Other sources (in the case of dividends the gross amount liable to tax and the appropriate tax should be shown) —			
1.			
2.			
3.			
4.			
Capital gains			
Total income (A)			

	Total income for income-tax	Total income for super-tax
Deduct—		
Earned income allowance (where admissible)* ..		
Capital gains†		
Reduced total income (B)		
Adjustment to total income to arrive at the total world income‡ (give details)		
Total world income (C)		

* Not to be deducted for the purposes of super-tax.
† Not to be deducted in the case of a company.
‡ To be completed in the case of non-residents only.

Div. 2 R. 20

Part II—Sums included in total income in respect of which income-tax and/or super-tax is not payable

Amount upon which relief is due	For income-tax relief	For super-tax relief
	Rs.	Rs.
(*a*) Under section 7(1) or on account of a Provident Fund to which the Provident Funds Act, 1925, applies		
(*b*) On account of recognised Provident Fund and Superannuation Fund		
(*c*) On account of insurance premia		
(*d*) Share from association of persons or from unregistered firm on the profits of which tax has already been paid or partnership profits from registered firm charged to tax in the hands of the firm under the second proviso to section 23(5)(*a*)		
(*e*) Interest on tax-free securities		
(*f*) Income accruing or arising in the State of Jammu and Kashmir which is exempt unless brought into the territory of India other than the said State		
(*g*) Profits of co-operative societies or dividends or other payments received out of such profits		
(*h*) Capital gains. (For super-tax purposes in the case of companies only)		
(*i*) Donations to charitable institutions and funds		
(*j*) Profits or gains derived from newly established industrial undertaking(s)		
(*k*) Other items, if any		
Total ..		

Total amount upon which relief is due—

For Income-tax relief. .. ..

For Super-tax relief . . ..

Part III—Computation of tax

Div. 2
R. 20

	Income-tax	Super-tax
	Rs. As.	Rs. As.
Gross income-tax chargeable on reduced total income (B)—(*See Part I*)		
Gross super-tax chargeable on reduced total income (B)—(*See Part I*)		
on earned income		
on unearned income		
Total ..		
Gross income-tax chargeable on total world income (C)—(*See Part I*)		
Gross super-tax chargeable on total world income (C)—(*See Part I*)		
on earned income		
on unearned income		
Total ..		
GROSS TAX PAYABLE ON TOTAL INCOME or reduced total income		
Add—		
Additional super-tax payable by a company on Rs.		
Additional income-tax payable by a company in respect of dividends		
Tax on capital gains		
Penalty under sections 18A(9), 25(2), 28, 44E, 44F and 46(1)		
Total gross demand ..		

Div. 2
R. 20

	Income-tax	Super-tax	Income-tax	Super-tax
			Rs. As.	Rs. As.
Deduct—				
Tax deducted or otherwise paid at source (*See Part I*)				
Proportionate tax on the total amount upon which relief is due (*See Part II*)				
Double income-tax relief				
Rebate of income-tax payable to a company in respect of undistributed profits of Rs.				
Rebate of super-tax at the rate of . . annas per rupee of the total income				
Rebate on income arising in—				
(*a*) merged territories				
(*b*) Part B States				
Total ..				
NET AMOUNT OF TAX PAYABLE / REFUNDABLE				
Deduct/Add—				
Amount paid or refunded as per original assessment on				
Amount paid under section 18A				
Amount paid under section 23B				
BALANCE PAYABLE OR REFUNDABLE				

Interest under section 18A	Rs.	Rs.
Interest payable by the assessee under section 18A(6) or (8)— 80% of the tax determined on the income to which section 18A applies at the rate applicable in 19 —19		
Tax paid under section 18A(2) or (3)		
Difference		
Interest thereon at per cent per annum from to .. .		
Deduct—Interest reduced or waived under the proviso to section 18A(6)		
Interest payable under section 18A(6) or 18A(8)		
Interest payable under section 18A(7)		
Total interest payable by assessee		
Deduct—Interest payable by Government under section 18A(5) ..		
Net amount of interest payable by assessee / Government		

TOTAL SUM PAYABLE/REFUNDABLE (in figures as well as in words)
Rs. As. (Rupees Annas)

Date ....

20A. Notwithstanding anything contained in Rule 20, the notice of demand under section 29 to be served upon the assessee in pursuance of an order under sub-section (1) of section 18A shall be in the following form— **Div. 2 R. 20A**

Notice of Demand under section 29 of the Indian Income-tax Act, 1922, for advance payment of tax under section 18A (1) of the Act

To

This is to give you notice under sub-section (1) of section 18A of the Indian Income-tax Act, 1922, that the sum of Rs. as specified below has been determined to be payable by you during the financial year 19 —19 .

*2. Whereas after issue of the previous notice of demand served on you on . ... your assessment / an assessment of the registered firm in which you are a partner for a previous year later than that referred to in the notice of demand has been completed, the sum payable by you has been re-determined to be Rs. as specified below.

3. The amount is payable in equal instalment(s) on or before the 15th June, 15th September, 15th December 19 , and 15th March 19 , respectively to the *Treasury Officer / Sub-Treasury Officer / Agent, Imperial Bank of India / Reserve Bank of India at . when, if the amount is paid, you will be granted a receipt Chalan(s) *is/are enclosed for the purpose in which you should enter the amount of each instalment at the time of payment. If this notice of demand is served on you after any of the dates on which the instalments specified herein are payable, the whole tax is payable in equal instalments on the dates which fall after the service of the notice or in one instalment if the notice is served after the 15th day of December 19 .

4. If at any time before the last instalment as aforesaid is due you estimate that your income (other than the income on which tax is deductible at source under section 18) for the previous year for assessment for the year ending on the 31st day of March 19 is less than the income on which you have been asked to pay tax as above you may send to the Income-tax Officer an estimate of the tax so payable on such estimated income and should pay such amount (less any instalments already paid in accordance with paragraph 3 of this notice) as accords with

* Delete inappropriate paragraphs or words.

Div. 2 R. 20A

your estimate in equal instalments on such of the dates specified above as have not expired or in one sum only if the last of such dates has not expired. For this purpose you should enter in the appropriate chalans the amount payable according to your estimate. You may revise your estimate at any time before the last instalment is due and may adjust any excess or deficiency in respect of any instalment already paid in a subsequent instalment or instalments.

5. If your income of the previous year for assessment for the year ending on the 31st day of March 19 includes any income of the nature of commission which is payable periodically and is not received or adjusted by the payer in your account before any of the quarterly instalments of tax becomes due, you may defer the payment of tax on that part of your income to the date when such income is normally receivable or adjustable, and if you do so, you should inform the Income-tax Officer of the date to which the payment is so deferred. If however you do not pay the tax so deferred within 15 days of the receipt of adjustment in your account of such income, you will be liable to pay interest thereon at 6 per cent per annum from the date of receipt or adjustment to the date of payment of tax.

6. If not having made an estimate of the tax payable by you under section 18A(2) you do not pay any instalment of tax on or before the date on which as specified in paragraph 3 of this notice it becomes due, you will be treated as in default in respect of such instalment and will be liable under section 46(1) to a penalty which may be as great as the amount of the instalment due. If, however, you have under sub-section (4) of section 18A deferred the payment of a part of the tax and have informed the Income-tax Officer accordingly you will not be treated as in default in respect of such tax until the date of deferment.

7. If under sub-section (2) of section 18A you send to the Income-tax Officer an estimate of the tax payable by you, but do not pay any instalment of tax in accordance therewith on or before the appropriate date, you will be treated as in default in respect of such instalment and will be liable under section 46(1) to a penalty which may be as great as the amount of the instalment.

Dated ....19 . *Income-tax Officer,*

Place..... . .. . *Address* . . . .

Order under section 18A(1) of the Income-tax Act, 1922

Div. 2 R. 20A

Name of assessee ....District or Area ....

Status .. .. Number in General Index . . ....

Address ....

	Rs.
Total income determined in the latest completed assessment being that for the year 19 —19 as reduced by the amount of capital gains included therein, if any	
Less share of income, if any, from a registered firm where the assessment of the firm has been completed for a year later than that referred to above	
Add share of income, if any, from a registered firm according to the latest completed assessment of the firm	
Total income	
Less earned income allowance for purposes of determining income-tax payable (but not for super-tax)	
Adjustments to total income to arrive at total world income in the case of a non-resident	
Total world income	

1	Income-tax 2	Super-tax 3
Gross income-tax and super-tax chargeable on 'total world income' (in the case of a non-resident only)		
Gross income-tax and super-tax chargeable on 'total income'		
Rs.		
Sums included in total income in respect of which income-tax and/or super-tax is not payable (*i*) Income to which the provisions of sec. 18 apply (*ii*) Income which is exempt from tax, *e.g.*, share of income from an association of persons or an unregistered firm on the profits of which tax has already been paid (*iii*) Interest on tax free securities (*iv*) Life insurance premia		
Total amount on which tax is not payable and proportionate tax thereon $\frac{\text{for income-tax}}{\text{for super-tax}}$		

Div. 2 Rr. 20A-20B

1	Income-tax 2	Super-tax 3
Deduct amount by which the net dividend income, if any, is increased and any excess tax on income on which income-tax is deductible under section 18 at the maximum rate		
Net amount of income-tax and super-tax		
Less amount on account of estimated double income-tax relief, if any		
Balance payable		
Less tax already paid in the financial year under section 18A in compliance with the previous notice of demand served on 19		
Net amount of tax $\frac{\text{payable}}{\text{refundable}}$		

Total sum $\frac{\text{payable}}{\text{refundable}}$ (in figures as well as in words)

Rs. as. (Rupees annas)

Date .... *Income-tax Officer* . ... .

Address ... .

20B. Notwithstanding anything contained in Rule 20 the notice of demand of any tax due in consequence of any provisional assessment made under section 23B shall be in the following form :—

Notice of Demand under section 29 of the Income-tax Act, 1922, for payment of tax provisionally assessed under section 23B of the Act

Status
G. I. R. No.

To

Take notice that for the assessment year the sum of Rs. has been provisionally determined to be payable by you under section 23B of the Indian Income-tax Act, 1922.

2. You are required to pay the above sum on or before the to the Treasury Officer / Sub-Treasury Officer / Agent, Imperial Bank of India / Reserve Bank of India at when you will be granted a receipt. A chalan is enclosed for the purpose.

3. If you do not pay the sum on or before the date specified above, you will, without prejudice to any other consequences which you may incur, be liable under

section 46(1) of the Indian Income-tax Act, 1922, to a penalty which may be as great as the tax due from you.

Dated 19 . *Income-tax Officer*

Place *Address*

21. An appeal under section 30 shall, in the case of an appeal against a refusal of an Income-tax Officer to make a fresh assessment under section 27, be in Form A ; in the case of an appeal by a person denying his liability to deduct tax under section 18(3B) in Form B-I ; in the case of an appeal against an order of an Income-tax Officer under section 25(2) in Form C ; in the case of an appeal against the order of an Income-tax Officer under section 25A in Form C(1) ; in the case of an appeal against an order of an Income-tax Officer under section 28 in Form D ; in the case of an appeal against a refusal of an Income-tax Officer to register a firm under section 26A in Form D-I ; in the case of an appeal against a refusal of an Income-tax Officer to register a firm or the cancellation of the registration of a firm under sub-section (4) of section 23 in Form D-II ; in the case of an appeal against an order of an Income-tax Officer under section 23A in Form F ; in the case of an appeal against an order of an Income-tax Officer under section 26(2) in Form G ; in the case of an appeal against an order of an Income-tax Officer under section 44E(6) or 44F(5) in Form H ; in the case of an appeal against an order of an Income-tax Officer under section 46(1) in Form I ; in the case of an appeal against an order under section 48 or 49F refusing to grant a refund in Form J ; and in other cases in Form B.

The statement of facts, the grounds of appeal or the statement of grounds of appeal, as the case may be, accompanying every memorandum of appeal shall be filed in duplicate.

FORM A

Form of appeal against an Order refusing to make a fresh assessment under section 27

To

The Appellate Assistant Commissioner of

The day of 19 .

The petition of of post office,

District, sheweth as follows :—

1. Under the Indian Income-tax Act, 1922, your petitioner's $\frac{\text{income}}{\text{loss}}$ has been computed at Rs. for the year commencing the 1st day of April, 19 .

2. Your petitioner was prevented by sufficient cause from making the return required by section 22(2) or did not receive the notice issued under sub-section (4) of section 22, or sub-section (2) of section 23, or had not a reasonable opportunity to comply or was prevented by sufficient cause from complying with the terms of the notice under sub-section (4) of section 22 or sub-section (2) of section 23, as more particularly specified in the statement attached.

Div. 2 R. 21

3. Your petitioner therefore presented a petition to the Income-tax Officer under section 27, requesting him to cancel the assessment. This petition, the Income-tax Officer, by his order, dated of which a copy is attached, has rejected.

4. Your petitioner therefore requests that the order of the Income-tax Officer may be set aside and that he may be directed to make a fresh assessment in accordance with the law.

5. The address for service of notices on the petitioner is.....

****Signed***

STATEMENT OF FACTS

Form of verification

I, , the petitioner, named in the above petition, do declare that what is stated therein and in the above statement of facts is true to the best of my information and belief.

Place .....
****Signature*** .....
Date .....
Status of the petitioner .....

** The form of appeal and the form of verification appended thereto shall be signed—
(*a*) in the case of an individual, by the individual himself;
(*b*) in the case of a Hindu undivided family, by the Manager or *Karta*;
(*c*) in the case of a company or local authority, by the principal officer;
(*d*) in the case of a firm, by a partner; and
(*e*) in the case of any other association, by a member of the association.

FORM B

Form of appeal against assessment to income-tax

To

The Appellate Assistant Commissioner of

The day of 19 .

The petition of of post office,

District, sheweth as follows :—

1. Under the Indian Income-tax Act, 1922, for the year commencing the 1st day of April, 19 ;

**your petitioner's total income has been assessed at* .....
your petitioner's total world income has been assessed at .....
the amount of tax payable by your petitioner has been determined at .....
the amount of loss incurred by your petitioner has been computed at .....
your petitioner has been granted a refund of .....

*2. The notice of demand / order under section 23(6) / intimation of the amount of loss / intimation of the orders of refund attached hereto, was served upon your petitioner on .

*3. During the previous year ending *your petitioner's **Div. 2 R. 21**
total income was
total world income was
total tax works out at (†)
loss amounted to
refund allowable to your petitioner was (†)
and that during the said previous year your petitioner had no other income.

*4. Your petitioner has made a return of his income to the Income-tax Officer under section 22, sub-section (1)/(2)/(2A), of the Act and has complied with all the terms of the notice served on him by the Income-tax Officer under section 23(2) and/or section 22(4).

5. Your petitioner therefore prays that
*he may be assessed accordingly
he may be declared not to be chargeable under the Act
his loss may be determined at
he may be granted a refund accordingly.

6. The address for service of notices on the petitioner is .....

**Signed*

GROUNDS OF APPEAL

Form of verification

I, , the petitioner, named in the above petition, do declare that what is stated therein is true to the best of my information and belief.

Place .....
***Signature* .....
Date .....
Status of the petitioner .....

* *N.B.*—Delete the inappropriate words.

† The tax or the refund need not be entered by the appellant, if the grounds of appeal indicate clearly the objections to the tax or the refund, as the case may be, determined by the Income-tax Officer.

** The form of appeal and the form of verification appended thereto shall be signed—
(*a*) in the case of an individual, by the individual himself;
(*b*) in the case of a Hindu undivided family, by the Manager or *Karta*;
(*c*) in the case of a company or local authority, by the principal officer;
(*d*) in the case of a firm, by a partner; and
(*e*) in the case of any other association, by a member of the association.

FORM B-I

Form of appeal in the case of a person denying his liability to deduct tax under section 18(3B)

To

The Appellate Assistant Commissioner of Income-tax,

The day of 19 .

The petition of of post office, District, sheweth as follows:—

1. Under the provisions of sub-section (3B) of section 18 of the Indian Income-tax Act, 1922, read with sub-section (6) of that section, your petitioner has been held liable to deduct and pay tax in respect of the sum of Rs. other than interest paid by him to the non-resident.

Div. 2 R. 21

2. The tax of Rs. was paid by your petitioner on 19 .

3. On the ground(s) set out below your petitioner denies his liability to make such deduction and prays that he may be declared not liable to make such deduction.

4. The address for service of notices on the petitioner is... ... .

***Signed*

GROUNDS OF APPEAL

Form of verification

I, , the petitioner, named in the above petition do declare that what is stated therein is true to the best of my information and belief.

Place .. . .
***Signature* . .
Date . . .
Status of the petitioner. . .

** The form of appeal and the form of verification appended thereto shall be signed—
(*a*) in the case of an individual, by the individual himself;
(*b*) in the case of a Hindu undivided family, by the Manager or *Karta*;
(*c*) in the case of a company or local authority, by the principal officer;
(*d*) in the case of a firm, by a partner; and
(*e*) in the case of any other association, by a member of the association.

FORM C

Form of appeal against an Order under section 25(2)

To

The Appellate Assistant Commissioner of Income-tax,

The day of 19 .

The petition of of post office, District, sheweth as follows:—

1. Under section 25(2) of the Indian Income-tax Act, 1922, a penalty of Rs. has been imposed on your petitioner. The notice of demand attached hereto was served upon him on .

2. Your petitioner was prevented by sufficient cause as more particularly explained below from giving notice within the time prescribed by section 25(2) to the Income-tax Officer of the discontinuance of his business, profession or vocation.

3. Your petitioner therefore requests that the order of the Income-tax Officer imposing a penalty of Rs. upon your petitioner may be set aside.

4. The address for service of notices on the petitioner is.....

***Signed*

STATEMENT OF FACTS

Form of verification

I, , the petitioner, named in the above petition, do declare that what is stated therein and in the above statement of facts is true to the best of my information and belief.

Place . . . . . .
***Signature* . . . . . .
Date . . . . .
Status of the petitioner . . .

** The form of appeal and the form of verification appended thereto shall be signed—

(*a*) in the case of an individual, by the individual himself;
(*b*) in the case of a Hindu undivided family, by the Manager or *Karta*;
(*c*) in the case of a company or local authority, by the principal officer;
(*d*) in the case of a firm, by a partner; and
(*e*) in the case of any other association, by a member of the association.

FORM C(1)

Form of appeal against an Order under section 25A

To

The Appellate Assistant Commissioner of Income-tax,
The day of 19 .
The petition of of post office,
District, sheweth as follows :—

Under section 25A of the Indian Income-tax Act, 1922, your petitioner/petitioners who belong to a Hindu family, hitherto assessed as undivided, claimed before the Income-tax Officer at the time of assessment that a partition had taken place among the members of the family and that the joint family property had been partitioned among the various members (or group of members) in definite portions and prayed that an order might be passed to this effect as laid down in section 25A(1) and that an assessment be levied as laid down in section 25A(2).

2. By his order, dated the , a copy of which is herewith attached and of which intimation was received by your petitioner on . . . . . , the Income-tax Officer has refused to pass the order referred to above and make assessments accordingly as laid down in section 25A(2). Your petitioner/petitioners therefore request(s) that the Income-tax Officer may be directed to pass such an order under section 25A(1) and to levy assessment as laid down in section 25A(2).

3. The address for service of notices on the petitioner is . . . . .

***Signed*

GROUNDS OF APPEAL

Form of verification

I/we, , the petitioner/petitioners, named in the above petition do hereby declare that what is stated therein is true to the best of my/our information and belief.

Place . .
***Signature* . . .
Date . . . . .
Status of the petitioner . . . . . .

** The form of appeal and the form of verification appended thereto shall be signed personally by the appellant or appellants.

Div. 2
R. 21

FORM D

Form of appeal to the Appellate Assistant Commissioner against an Order under section 28

To

The Appellate Assistant Commissioner of Income-tax,

The day of 19 .

The petition of of post office,

District, sheweth as follows :—

1. Under section 28 of the Indian Income-tax Act, 1922, a penalty of Rs. has been imposed on your petitioner by the Income-tax Officer. The notice of demand attached hereto was received by your petitioner on .

*2. Your petitioner had reasonable cause for not furnishing the return of his total income which he was required to furnish under sub-section (1) or sub-section (2) of section 22 or section 34, or for not furnishing it within the time allowed and in the manner required by such notice.

Your petitioner had reasonable cause for not complying with the notice under sub-section (4) of section 22 or sub-section (2) of section 23.

Your petitioner did not conceal the particulars of his income or deliberately furnish inaccurate particulars of such income.

3. For the reasons given in the grounds of appeal your petitioner therefore prays that the order of the Income-tax Officer may be set aside.

4. The address for service of notices on the petitioner is . . . . . .

**Signed*

GROUNDS OF APPEAL

Form of verification

I, , the petitioner, named in the above petition, do declare that what is stated therein is true to the best of my information and belief.

Place
***Signature*
Date
Status of the petitioner

** The form of appeal and the form of verification appended thereto shall be signed—
(*a*) in the case of an individual, by the individual himself ;
(*b*) in the case of a Hindu undivided family, by the Manager or *Karta* ;
(*c*) in the case of a company or local authority, by the principal officer ;
(*d*) in the case of a firm, by a partner ; and
(*e*) in the case of any other association, by a member of the association.

* Delete the inappropriate words.

Div. 2
R. 21

FORM D-I

Form of appeal against an Order refusing to register a firm under section 26A

To

The Appellate Assistant Commissioner of Income-tax,

The day of 19

The petition of of post office,

District, sheweth as follows :—

1. Under section 26A of the Indian Income-tax Act, 1922, your petitioner applied to the Income-tax Officer for the registration of the firm.

2. By his order, dated the , a copy of which is herewith attached, and of which the intimation was received by your petitioner on , the Income-tax Officer has refused to register the said firm.

3. Your petitioner therefore requests that the order of the Income-tax Officer may be set aside and that he may be directed to register the firm.

4. The address for service of notices on the petitioner is .. . . .

***Signed*

GROUNDS OF APPEAL

Form of verification

I, , the petitioner, named in the above petition, do hereby declare that what is stated therein is true to the best of my information and belief.

Place ... . .
***Signature* ..
Date .....
Status of petitioner.

** The form of appeal and the form of verification appended thereto shall be signed by a partner of the firm.

FORM D-II

Form of appeal against an Order refusing to register a firm or cancelling its registration under section 23(4)

To

The Appellate Assistant Commissioner of Income-tax,

The day of 19 .

The petition of of post office,

District, sheweth as follows :—

1. In making an assessment on the petitioner firm under sub-section (4) of section 23 of the Indian Income-tax Act, 1922, the Income-tax Officer has refused to register / has cancelled the registration of the firm.

Div. 2
R. 21

2. The intimation regarding the refusal / cancellation of the registration was received by the petitioner on 19 when the notice of demand attached herewith was served on your petitioner.

3. As will be seen from the ground(s) of appeal, there was no justification for the Income-tax Officer to have refused / cancelled the registration of the firm.

4. Your petitioner therefore requests that the order of the Income-tax Officer refusing / cancelling the registration may be set aside and that he may be directed to * register the firm / treat the firm as registered.

5. The address for service of notices on the petitioner is . . . . . .

***Signed*

GROUNDS OF APPEAL

Form of verification

I, , the petitioner, named in the above petition, do hereby declare that what is stated therein is true to the best of my information and belief.

Place . . .
***Signature* . . . .
Date . .
Status of the petitioner. . .

** The form of appeal and the form of verification appended thereto shall be signed by a partner of the firm.

FORM F

Form of appeal against an Order under section 23A

To

The Appellate Assistant Commissioner of Income-tax,

The day of 19 .

The petition of of post office, District, sheweth as follows :—

1. The Income-tax Officer of , with the approval of the Inspecting Assistant Commissioner of Income-tax, has passed an order dated (of which a copy is attached and of which intimation was received by your petitioner on . . . . . .) under sub-section (1) of section 23A of the Indian Income-tax Act, 1922, that the undistributed portion of the assessable income of the company for the year as computed for income-tax purposes shall be deemed to have been distributed as dividends amongst the shareholders as at the date of the general meeting held on .

2. Your petitioner being of opinion, on the grounds set out below, that the order of the Income-tax Officer should not have been passed prays that the said order may be set aside.

3. The address for service of notices on the petitioner is . . . . . .

***Signed*

---

* Delete the inappropriate words.

GROUNDS OF APPEAL

Form of verification

Div. 2
R. 21

I, , the petitioner, named in the above petition, do declare that what is stated therein is true to the best of my information and belief.

Place . ...

***Signature*

Date

Status of the petitioner ..... .

** The form of appeal and the form of verification appended thereto shall be signed by the principal officer of the company.

FORM G

Form of appeal against an Order under proviso to sub-section (2) of section 26

To

The Appellate Assistant Commissioner of Income-tax,

The day of 19 .

The petition of of post office,

District, sheweth as follows :—

1. Under the proviso to sub-section (2) of section 26 of the Indian Income-tax Act, 1922, your petitioner has been held liable in respect of the tax of Rs. . The Notice of Demand attached hereto was served upon him on .

2. As will be seen from the grounds of appeal attached hereto this tax should be recovered from whom your petitioner has succeeded.

3. Your petitioner therefore requests that the order of the Income-tax Officer imposing tax of Rs. upon your petitioner be set aside.

4. The address for service of notices on the petitioner is..... .. ..

***Signed*

GROUNDS OF APPEAL

Form of verification

I, , the petitioner, named in the above petition, do declare that what is stated therein and in the above grounds of appeal is true to the best of my information and belief.

Place

***Signature* . . ...

Date.... ....

Status of the petitioner. . .. .

** The form of appeal and the form of verification appended thereto shall be signed—

(*a*) in the case of an individual, by the individual himself ;

(*b*) in the case of a Hindu undivided family, by the Manager or *Karta* ;

(*c*) in the case of a company or local authority, by the principal officer ;

(*d*) in the case of a firm, by a partner ; and

(*e*) in the case of any other association, by a member of the association.

Div. 2
R. 21

FORM H

Form of appeal against an Order under section 44E(6) or 44F(5)

To

The Appellate Assistant Commissioner of Income-tax,

The day of 19 .

The petition of of post office,

District, sheweth as follows :—

1. Under section 44 $\frac{E(6)}{F(5)}$ a (further) penalty of Rs.
has been imposed on your petitioner by the Income-tax Officer .
The Notice of Demand attached hereto was served upon him on .

2. As will be seen from the grounds of appeal attached hereto your petitioner had reasonable excuse for failure $\frac{\text{to comply with the notice of}}{\text{to furnish statement of particulars required by}}$ the Income-tax Officer.

3. Your petitioner therefore requests that the order of the Income-tax Officer imposing a (further) penalty of Rs. upon your petitioner may be set aside.

4. The address for service of notices on the petitioner is... . . ....

***Signed*

GROUNDS OF APPEAL

Form of verification

I, , the petitioner, named in the above petition, do declare that what is stated therein and in the above grounds of appeal is true to the best of my information and belief.

Place ....
***Signature*..... . . . ..
Date..... .. . .
Status of the petitioner.. . ..

** The form of appeal and the form of verification appended thereto shall be signed—

(*a*) in the case of an individual, by the individual himself;

(*b*) in the case of a Hindu undivided family, by the Manager or *Karta*;

(*c*) in the case of a company or local authority, by the principal officer;

(*d*) in the case of a firm, by a partner; and

(*e*) in the case of any other association, by a member of the association.

FORM I

Div. 2
R. 21

Form of appeal against an Order under section 46(1)

To

The Appellate Assistant Commissioner of Income-tax,

The day of 19 .

The petition of of post office,

District, sheweth as follows :—

1. Under sub-section (1) of section 46 of the Indian Income-tax Act, 1922, a (further) penalty of Rs. has been imposed on your petitioner. The Notice of Demand attached hereto was served on him on .

2. As will be seen from the grounds of appeal your petitioner had no intention to default.

3. The tax due in respect of the assessment for the assessment year has already been paid.

4. Your petitioner therefore requests that the order of the Income-tax Officer imposing a penalty of Rs. upon your petitioner may be set aside.

5. The address for service of notices on the petitioner is . . . . . .

***Signed*

GROUNDS OF APPEAL

Form of verification

I, , the petitioner, named in the above petition, do declare that what is stated therein and in the above grounds of appeal is true to the best of my information and belief.

Place .....

***Signature* .....

Date .....

Status of the petitioner .

** The form of appeal and the form of verification appended thereto shall be signed—

(*a*) in the case of an individual, by the individual himself;

(*b*) in the case of a Hindu undivided family, by the Manager or *Karta*;

(*c*) in the case of a company or local authority, by the principal officer;

(*d*) in the case of a firm, by a partner; and

(*e*) in the case of any other association, by a member of the association.

Div. 2
R. 21

FORM J

Form of appeal against an Order refusing to grant a refund under section 48 or 49F

To

The Appellate Assistant Commissioner of Income-tax,

The day of 19 .

The petition of of post office,

District, sheweth as follows :—

Your petitioner applied to the Income-tax Officer for a refund under section 48 or 49F of the Indian Income-tax Act, 1922, of Rs. .
The Income-tax Officer has by his order, dated the
of which a copy is attached, $\frac{\text{rejected the application}}{\text{granted a refund of only Rs.}}$. Intimation of this order was received by your petitioner on .

Your petitioner therefore requests that the order of the Income-tax Officer may be set aside and the refund asked for may be granted.

The address for service of notices on the petitioner is . . . .

***Signed*

GROUNDS OF APPEAL

Form of verification

I, , the petitioner, named in the above petition, do declare that what is stated therein is true to the best of my information and belief.

Place . . .
***Signature* .
Date . .. .
Status of the petitioner. . ..

** The form of appeal and the form of verification appended thereto shall be signed—

(*a*) in the case of an individual, by the individual himself;

(*b*) in the case of a Hindu undivided family, by the Manager or *Karta*;

(*c*) in the case of a company or local authority, by the principal officer;

(*d*) in the case of a firm, by a partner; and

(*e*) in the case of any other association, by a member of the association.

21A. The forms of appeal prescribed by rules 21 and 40-B and by the Notifications of the Government of India in the Finance Department (Central Revenues), No. 14—Income-tax, dated the 2nd April 1932, No. 21—Income-tax, dated the 5th June 1937, No. 69—Income-tax, dated the 16th September 1939, and No. 1—Income-tax, dated the 4th January 1941, and the forms of verification appended thereto shall be signed— **Div. 2 Rr. 21A-22**

(*a*) in the case of an individual, by the individual himself;

(*b*) in the case of a Hindu undivided family, by the Manager or *Karta*;

(*c*) in the case of a company or local authority, by the principal officer;

(*d*) in the case of a firm, by a partner; and

(*e*) in the case of any other association, by a member of the association.

22. An appeal under section 33 or 33B to the Appellate Tribunal shall be in the following form :—

FORM OF APPEAL TO THE TRIBUNAL

(*See sections* 33(3) *and* 33B(4) *of the Act*)

IN THE INCOME-TAX APPELLATE TRIBUNAL, BOMBAY

No. of 19 —19 .

Appellant	*versus*	Respondent
The State in which the assessment was made		
Assessment year, and in the case of an assessment under section 34 of the Indian Income-tax Act, 1922, the year in which the income should have been assessed		
Income-tax Officer passing the original order		
Section of the Indian Income-tax Act, 1922, under which the Income-tax Officer passed the order		
Appellate Assistant Commissioner determining the appeal or the Commissioner passing the order under section 33B		
Date of communication of the order of the Appellate Assistant Commissioner or Commissioner as the case may be		
Address to which notices may be sent to the appellant		
Address to which notices may be sent to the respondent		
Relief claimed in appeal		

Div. 2 Rr. 22-22A

Grounds of appeal

1.

2.

3.

4. etc.

Signed

(*Appellant*)

Signed

(*Authorised representative, if any*)

Verification

I, , the appellant, do hereby declare that what is stated above is true to the best of my information and belief.

Verified today the day of 19 .

Signed

N.B.—1. The memorandum of appeal must be in triplicate and should be accompanied by two copies (at least one of which should be a certified copy) of the order appealed against and two copies of the order of the Income-tax Officer.

2. The memorandum of appeal in the case of an appeal by an assessee under section 33 of the Act must be accompanied by a fee of one hundred rupees. It is suggested that the fee should be credited in the Treasury or a branch of the Imperial Bank of India or a branch of the Reserve Bank of India after obtaining a chalan from the Income-tax Officer and the triplicate chalan sent to the Tribunal with the memorandum of appeal. The Appellate Tribunal will not accept cheques, drafts, hundies or other negotiable instruments. In the case of an appeal by an assessee under section 33B of the Act, the memorandum of appeal must be accompanied by a treasury receipt in support of having paid the fee of Rs. 100.

3. The memorandum of appeal should be written in English and should set forth, concisely and under distinct heads, the grounds of appeal without any argument or narrative and such grounds should be numbered consecutively.

22A. An application under sub-section (1) of section 66 requiring the Tribunal to refer to the High Court any question of law shall be in the following form :—

Div. 2
R. 22A

FORM R(T)

FORM OF SECTION 66(1) REFERENCE APPLICATION

IN THE INCOME-TAX APPELLATE TRIBUNAL, BOMBAY

In the matter of the assessment of ..... (name of the assessee) 66
R. A. No. ..... of 19 / (to be filled in by the office.)

..... *v* .....

Applicant Respondent

State from which the application is filed .....

Name and number of the appeal which gives rise to the reference ..

The applicant states as follows :—

1. that the appeal noted above was decided by the ..... Bench of the Tribunal on.....

2. that notice of the order under sub-section (4) of section 33 of the Indian Income-tax Act, 1922, was served on the applicant on .....

3. that the facts which are admitted and/or found by the Tribunal and which are necessary for drawing up a statement of the case, are stated in the enclosure for ready reference.

4. that the following questions of law arise out of the order of the Tribunal :—

(1)

(2)

(3)

5. that the applicant, therefore, requires under sub-section (1) of section 66 of the aforesaid Act that a statement of the case be drawn up and the questions of law numbered..... out of the questions of law referred to in paragraph 4 above be referred to the High Court.

6. that the documents or copies thereof, as specified below (the translation in English of the documents, where necessary, is annexed) be forwarded to the High Court with the statement of the case.

Signed

(*Applicant*)

Signed

(*Authorised representative, if any*)

N.B.—The application when made by an assessee must be accompanied by a fee of one hundred rupees. It is suggested that the fee should be credited in the Treasury or a branch of the Imperial Bank of India or a branch of the Reserve Bank of India after obtaining a chalan from the Income-tax Officer or the Excess Profits Tax Officer and the triplicate chalan sent to the Tribunal with the application. The Appellate Tribunal will not accept cheques, drafts, hundies or other negotiable instruments.

Div. 2 Rr. 23-33

23. (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 "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 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 originally 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 year previous to that in which the assessment is made ;

(*b*) where agricultural produce is not ordinarily sold in the market in its raw state, the aggregate of—

(1) the expenses of cultivation ;

(2) the land revenue or rent paid for the area in which it was grown ; and

(3) such amount as the Income-tax Officer finds, having regard to all the circumstances in each case, to represent a reasonable rate of profit on the sale of the produce in question as agricultural produce.

24. Income derived from the sale of tea grown and manufactured by the seller in the taxable territories shall be computed as if it were income derived from business, and 40 per cent. of such income shall be deemed to be income, profits and gains liable to tax :

Provided that 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, unless such area has previously been abandoned.

25. to 32. *Omitted.*

33. In any case in which the Income-tax Officer is of opinion that the actual amount of the income, profits or gains accruing or arising to any person residing out of the taxable territories whether directly or indirectly through or from any business connection in the taxable territories or through or from any property in the taxable territories, or through or from any asset or source of income in the taxable territories, or through or from any money lent at interest and brought into the taxable territories in cash or in kind cannot be ascertained, the amount of such income, profits or gains for the purposes of assessment to income-tax may be calculated on such percentage of the turnover so accruing or arising as the Income-tax Officer may consider to be reasonable, or on an amount which bears the same proportion to the total profits of the business of such person (such profits being computed in accordance with the provisions of the Indian Income-tax Act) as the receipts so accruing or arising bear to the total receipts of the business, or in such other manner as the Income-tax Officer may deem suitable.

34. The profits derived from any business carried on in the manner referred to in section 42(2) of the Act may be determined for the purposes of assessment to income-tax according to the preceding rule. **Div. 2 Rr. 34-36**

35. *Omitted.*

36. An application for a refund of tax under section 48 of the Act shall be made in the following form :—

Application for Refund of Income-tax/Super-tax

I of (address) do hereby state that my total income and total world income (*see* note 2) computed in accordance with the provisions of the Indian Income-tax Act, 1922 (XI of 1922), during the year ending on being the previous year for the assessment for the year ending on the 31st March 19 , amounted to Rs. and Rs. respectively, that the total income-tax and super-tax chargeable in respect of such total income is Rs. and that the total amount of income-tax and super-tax paid, or treated as paid under sub-section (5) of section 18, is Rs. .

I therefore request for a refund of Rs. .

Signature

I hereby declare that I am $\frac{\text{*resident and ordinarily resident}}{\text{resident but not ordinarily resident}}$ in the taxable territories and that what is stated in this application is correct.

Dated 19 . *Signature*

NOTE 1.—The application should be accompanied by a return of total income and total world income in the prescribed form.

NOTE 2.—Non-resident persons who elected to be assessed on the basis of their total world income should state the amount of such income in the space provided. Others should leave it blank.

NOTE 3.—Where the application is made in respect of interest on securities or dividends from companies, the application should be accompanied by the certificate prescribed under section 18(9) or section 20, as the case may be.

NOTE 4.—The application for a refund should be made to the Income-tax Officer for the district in which the applicant is chargeable directly to income-tax, or if he is not chargeable directly to income-tax, to the Income-tax Officer for the district in which the applicant ordinarily resides. Where there is a Special Refund Circle, the application for refund should be submitted to the Income-tax Officer of that Circle.

NOTE 5.—A non-resident person should make his application for the refund :—

(1) if the total income is made up of income wholly taxed at source or dividends or both—	to the I.T.O., Non-resident Refund Circle, Bombay ;

* Delete whichever description is inappropriate.

Div. 2 Rr. 36-40

(2) if any part of the income is derived from horse racing—	to the I.T.O., 'A' Ward, Poona ;
(3) if assessed through statutory agent—	to the I.T.O. who has jurisdiction over the statutory agent ;
(4) any other non-resident person—	to the I.T.O. of the Circle in which the greater part of the income arises.

NOTE 6.—The application may be presented by the applicant in person or through a duly authorised agent or may be sent by post.

36A. *Omitted.*

37. The application under rule 36 shall be accompanied by a return of total income and total world income in the form prescribed under section 22 unless the applicant has already made such a return to the Income-tax Officer.

37A. *Omitted.*

38. Where any part of the total income of a person making an application under section 48 for refund of income-tax or super-tax (or both) consists of dividends from companies, or income from which income-tax or super-tax (or both) has been deducted under the provisions of section 18, the application shall be accompanied by the certificates prescribed under section 18(9) or under section 20 as the case may be.

39. The application under rule 36 shall be made as follows :—

(*a*) if the applicant is resident in the taxable territories, to the Income-tax Officer of the District in which the applicant is chargeable directly to income-tax, or if he is not chargeable directly, to the Income-tax Officer of the District in which he ordinarily resides ; where by special order the Commissioner of Income-tax or the Central Board of Revenue has authorised an Income-tax Officer to deal with particular cases or classes of cases, the application for refund should be made to the Income-tax Officer so authorised ;

(*b*) if the applicant is resident outside the taxable territories, to the Income-tax Officer appointed by the Central Board of Revenue.

39A. *Omitted.*

40. An application for refund of income-tax under section 49 of the Act shall be made in the following form :—

Application for relief from double income-tax under section 49 of the Indian Income-tax Act, 1922

I, of , do hereby state that I have paid (or under the provisions of section 49B of the Act must be deemed to have paid) United Kingdom income-tax and super-tax amounting to £ for the year ending 19 , on an income of £ and that Indian income-tax/income-tax and super-tax of Rs. has also been paid (or under the provisions of section 49B of the Act must be deemed to have been paid) on the same income/income from the same source amounting to Rs. . I have obtained relief under the provisions of section 27 of the Finance Act, 1920, at the rate of in accordance with the attached certificate from His Majesty's Inspector of Taxes.

I now pray for a further relief at the rate of amounting to Rs. under section 49 of the Indian Income-tax Act, 1922, to which I am entitled. My income from all sources to which this Act applies during the "previous year" ending on the 19 , amounted to Rs. only—see Return of income attached/already submitted. **Div. 2 Rr. 40-40A**

Signature

I hereby declare that what is stated herein is correct.

Dated. . . . . 19 .

Signature

40A. An application for refund of income-tax under the India and Burma (Income-tax Relief) Order, 1936, shall be made in the following form :—

Application for relief from double/triple income-tax under the India and Burma (Income-tax Relief) Order, 1936

I, of , do hereby state that I have paid* Burma income-tax/income-tax and super-tax amounting to Rs. Burma income-tax/income-tax and super-tax and United Kingdom income-tax/income-tax and super-tax amounting to Rs. and £ respectively for the year ending/ended 31st March 19 on an income† of Rs./Rs. and £ respectively and that Indian income-tax/income-tax and super-tax of Rs. has also been paid on the same income/part of the same income amounting to Rs. . I am therefore entitled to relief under the provisions of the India and Burma (Income-tax Relief) Order, 1936, at the rate of . *[I have obtained relief under the provisions of section 27 of the Finance Act, 1920, at the rate of in accordance with the attached certificate from His Majesty's Inspector of Taxes.]

I now pray for relief amounting to Rs. under the India and Burma (Income-tax Relief) Order, 1936. My income from all sources to which the Indian Income-tax Act, 1922, applies during the previous year ending on the 19 , amounted to Rs. only—see Return of income attached/already submitted. I attach the official receipt of the Burma income-tax paid and the notice of assessment, showing the basis on which the liability has been computed (‡as also copies of the appellate order of the Assistant Commissioner and of the order on revision by the Commissioner).

Signature

* For claimants for relief from triple income-tax only.

† Where the income on which income-tax has been charged differs from that on which super-tax has been charged both amounts must be specified.

‡ In cases in which no appeal to the Assistant Commissioner or petition to revise the assessment to the Commissioner has been made these words or the appropriate part thereof may be struck off.

Div. 2 Rr. 40A-42A

I hereby declare that what is stated herein is correct. *I further declare that as regards my Burma assessment, I have no intention to appeal to the Assistant Commissioner or to approach the Commissioner to revise it.

Dated..... .....19 . *Signature*

40B. An appeal under the India and Burma (Income-tax Relief) Order, 1936, shall be in the following form :—

Form of appeal against an order refusing to grant a refund under the India and Burma (Income-tax Relief) Order, 1936

To

The Appellate Assistant Commissioner of Income-tax,

The day of 19 .

The petition of of post office, District, sheweth as follows :—

Your petitioner applied to the Income-tax Officer for a refund under the India and Burma (Income-tax Relief) Order, 1936, of Rs. .

The Income-tax Officer has by his order, dated the of which a copy is attached, rejected the application / granted a refund of only Rs. . Intimation of this order was received by your petitioner on .

Your petitioner therefore requests that the order of the Income-tax Officer may be set aside and the refund asked for may be granted.

Signed

GROUNDS OF APPEAL

Form of verification

I, , the petitioner, named in the above petition, do declare that what is stated therein is true to the best of my information and belief.

Signed

Dated..... .....19 .

41. The application under rule 36 or 40 may be presented by the applicant in person or through a duly authorised agent or may be sent by post.

42. A return shall be furnished by the principal officer of a company under section 19A 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 a dividend or aggregate dividends if the amount thereof exceeds Rs. 5,000 in the case of any other shareholder.

42A. A return shall be furnished by the person responsible for paying interest not being interest on securities in respect of amounts of interest or aggregate interest exceeding Rs. 400.

* In case an appeal and a revision petition have been made or only an appeal has been made, these words or the appropriate part thereof may be struck off.

43. The return by the principal officer of a Company under section 19A shall be in the following form and shall be delivered to the Income-tax Officer who assesses the company :— **Div. 2 Rr. 43-43A**

Return under section 19A of the Indian Income-tax Act, 1922, for the year 1st April 19 to 31st March 19 .

Name of Company

Address of Company

(1) Resident Shareholders/Non-Resident Shareholders.

Serial No.	Name of shareholder	Address of shareholder	Date of declaration of dividends	(2) Amount of dividends	
				Net	Gross
1	2	3	4	5	6
				Rs.	Rs.

I, , the principal officer of the Company, hereby certify that the above statement contains a complete list of :

(1) the resident/non-resident shareholders which are companies and to whom a dividend was distributed in the period from the 1st April 19 to the 31st March 19 , and

(2) other resident/non-resident shareholders of the company to whom a dividend or aggregate dividends exceeding Rs. 5,000 was or were distributed in the period from the 1st April 19 to the 31st March 19 .

Dated.. . . . . 19 . *Signature*

NOTE 1.—Separate form should be used for resident and non-resident shareholders.

NOTE 2.—Where dividends are issued "free of income-tax", the figure to be entered in column 5 is the sum actually paid, and the figure to be entered in column 6 is the aggregate of the sum so paid and the amount of income-tax payable by the company in respect of the dividends.

43A. The return under section 20A shall be in the following form and shall, in the case of a company, be delivered by its principal officer to the Income-tax Officer having jurisdiction for the time being to assess the company, and in other cases to the Income-tax Officer in whose jurisdiction the person responsible for paying interest resides :—

Return under section 20A of the Indian Income-tax Act, 1922, for the year 1st April 19 to 31st March 19 .

Name of payer

Address of payer

Serial No.	Name of payee	Address of payee	Date of payment	Amount of interest or aggregate interest

Div. 2 Rr. 43A-45

I, ... , the principal officer of the company, hereby certify that the above statement contains a complete list of persons to whom interest or aggregate interest exceeding Rs. 400 (regardless of any interest paid to $\frac{\text{me}}{\text{the company}}$) was paid during the period 1st April 19 to 31st March 19 .

Date.. . . .. . . 19 . *Signature*

44. The following bodies are recognised by the Central Board of Revenue as associations of accountants for the purposes of clause (*iii*) of sub-section (2) of section 61 of the Indian Income-tax Act, 1922 :—

1. The Institute of Chartered Accountants in England and Wales ;
2. The Society of Accountants in Edinburgh ;
3. The Institute of Accountants and Actuaries in Glasgow ;
4. The Society of Accountants in Aberdeen ;
5. The Institute of Chartered Accountants in Ireland ;
6. The Society of Incorporated Accountants and Auditors, London.

45. The following accountancy examinations are recognised by the Central Board of Revenue for the purpose of sub-clause (*b*) of clause (*iv*) of sub-section (2) of section 61 of the Indian Income-tax Act, 1922 :—

1. Government Diploma in accountancy examination conducted by the Accountancy Diploma Board, Bombay.
2. Diploma in Commerce issued under the authority of the Governments of Madras, Andhra, West Bengal, Punjab and Delhi.
3. The First Examination conducted by the Central Government under the Auditor's Certificate Rules, 1932.
4. Final examination conducted by the Association of Certified and Corporate Accountants, London.
5. The Bombay Government Diploma in Commerce provided that the diploma-holder took 'Accountancy' as his optional subject for the diploma course and has also passed the Matriculation Examination of a recognised university or an equivalent examination.
6. The Diploma in Accountancy awarded by the Sydenham College of Commerce and Economics, Bombay, provided that the diploma-holder has passed the Matriculation Examination of a recognised university or an equivalent examination.
7. Senior All-India Diploma in Commerce awarded by the All-India Board of Technical Studies in Commerce and Business Administration of the All-India Council for Technical Education, Government of India, Education Department, New Delhi, provided that the diploma-holder took 'Advanced Accountancy and Auditing' as his optional subject for the diploma course.

46. The following educational qualifications are prescribed by the Central Board of Revenue for the purposes of sub-clause (*c*) of clause (*iv*) of sub-section (2) of section 61 of the Indian Income-tax Act, 1922 :— **Div. 2 Rr. 46-48**

A degree in Commerce, Law, Economics or Banking including Higher Auditing conferred by any of the following Universities :—

I. Indian Universities :

Any Indian University incorporated by any law for the time being in force.

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) and the Queen's University, Belfast.

VI. Pakistan Universities :

Any Pakistan University incorporated by any law for the time being in force.

47. For the purposes of clauses (*xiii*) and (*xiv*) of sub-section (2) of section 10 of the Act, the 'prescribed authority' shall be the Council of Scientific and Industrial Research, the Indian Council of Agricultural Research, or the Indian Council of Medical Research, as may be appropriate to the nature of the scientific research in question.

48. The Income-tax Officer may reduce or waive the interest payable under section 18A in the cases and under the circumstances mentioned below, namely :—

(1) Where 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 43 deemed to be an agent of another person and is assessed upon the latter's income.

(3) Where the assessee has income from an unregistered firm to which the provisions of clause (*b*) of sub-section (5) of section 23 are applied.

(4) Where the "previous year" is the financial year or any year ending near about the close of the financial year and large profits are made after the 15th of March, in circumstances which could not be foreseen.

(5) Any case in which the Inspecting Assistant Commissioner considers that the circumstances are such that a reduction or waiver of the interest payable under section 18A(6) is justified.

Div. 2 R. 49

49. The Notice of Demand in respect of the sum of money specified in the order under sub-section (1B) of section 34 shall be in the following form :

INCOME-TAX

Notice of Demand in respect of the sum of money specified in the Order under sub-section (1B) of section 34 of the Indian Income-tax Act, 1922 (XI of 1922)

To

....

....

....

Status
G.I.R.N.

This is to give you notice that for the assessment year/years* 1940-41, 1941-42, 1942-43, 1943-44, 1944-45, 1945-46, 1946-47, 1947-48 a sum of Rs. . .. . has been specified by the Central Board of Revenue in its order No. . . . . dated the. . .. .. , made under sub-section (1B) of section 34 of the Indian Income-tax Act, 1922, to be the sum of money payable by you / you as well as by ____ jointly *and* severally.

2. The said sum is payable on or before / by. ..instalments on or before the respective dates noted below against the various instalments :

and it should be paid to the *Treasury Officer / Sub-treasury Officer / State Bank of India at ____ / Reserve Bank of India.

When the said sum / the instalment has been paid you will be granted a receipt. A chalan is / Challans are enclosed for the purpose.

3. If you do not pay the said sum or the amount due for any instalment on or before the date or dates specified above, you will be liable to a penalty or further penalty, as the case may be, under sub-sections (1) and (1A) of section 46 of the said Act, and, further, the entire amount remaining unpaid on the date of the default, occurring for the first time, will become payable forthwith with such interest as may have been stipulated in the terms of the settlement under sub-section (1B) of section 34 of the said Act.

4. No appeal lies against the determination of the sum of money mentioned in paragraph 1 above or against any matters stated in the settlement.

Date

Place

Income-tax Officer,
Seal ....*Circle/Ward/District*
Address .....

* Delete inappropriate words or years.

DIVISION 3

NOTIFICATIONS, ORDERS, RULES, ETC. PERTAINING TO INCOME-TAX

A

EXEMPTIONS FROM TAX

EXEMPTIONS, ETC., NOTIFIED UNDER SEC. 60 OF THE INDIAN INCOME-TAX ACT, 1922

I

Incomes excluded from total income altogether

(*Finance Department Notification No. 878-F—Income-tax, dated the 21st March, 1922, as amended or added to from time to time*)

The following classes of income shall be exempt from the tax payable under the said Act and they shall not be taken into account in determining the total income or salary of an assessee for the purposes of the said Act *[except for the purposes of sub-section (4) of section 48] :—

(1) *Deleted* by Government of India, Finance Department (Central Revenues), Notification No. 8—Income-tax, dated the 24th January, 1942.

(2) Sums paid in pursuance of Article 3 of the agreement, dated the 17th August, 1825, between the British Government and the King of Oudh.

(3) Income derived from the Bua tax defined in clause (*c*) of section 2 of the Teri Dues Regulation, 1902.

(4) The salary and allowances paid by a State in India during the period of deputation to any person deputed by the State for training in British India.

(5) Scholarships granted to meet the cost of education.

(6) Such portion of the income of a member of His Majesty's Naval, Military or Air Forces, British or Indian, or of the Royal Indian Marine as is compulsorily payable by him under the orders, or with the approval of Government to a mess, wine or band fund.

(7) The allowances attached to—

The Victoria Cross.

The Military Cross.

The Order of British India.

The Indian Order of Merit.

The King's Police Medal.

The Indian Police Medal.

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* NOTE.—The reference to sub-section (4) of section 48 in the preamble of this notification is a reference to the old sub-section before the amendments of 1939. The whole of section 48 was replaced by a new one by section 55 of the Indian Income-tax (Amendment) Act, 1939 (VII of 1939), and the new sub-section (4) does not correspond to the old sub-section. The reference to the old sub-section is material only for the assessments upto and including the year 1938-39 and for certain cases for 1939-40 also where sub-sections (4) and (5) of section 6 of the Indian Finance Act, 1939, apply. For assessments after the year 1939-40, the words "except for the purposes of sub-section (4) of section 48" will be obsolete.

Div. 3 A (8) The interest on Government securities held by, or on behalf of, Ruling Chiefs and Princes of India as their private property.

(9) "Jangi Inams" awarded to Indian Officers, Indian other ranks and followers in respect of services in the Great War.

(10) *Deleted* } by Notification No. S.R.O. 1335, dated the 21st June, 1955,
(11) *Deleted* } with effect from the 1st April, 1955.

(12) The income of a University or other educational institution existing solely for educational purposes and not for purposes of profit.

(13) The income of "Thana Funds" administered by Political Agents in Kathiawar and of the "Secunderabad Local (Akbari, etc.) Fund" administered by the Resident at Hyderabad.

(13-A) The income of the Rewa Kantha Mewas Administrations Fund, and of the Sankheda Mewas Road Fund administered by the Political Agent, Rewa Kantha.

(13-B) The income of—

(*a*) the following funds controlled by the Resident for the States of Western India, namely :—

The Kathiawar Consolidated Local Fund; the Rajkot Civil Station Land Improvement Fund ; the Rajkot Civil Station Fund ; the Kathiawar Mounted Police Fund ; the Consolidated Local Fund, Mahi Kantha ; the Consolidated Local Fund, Banas Kantha, including the Palanpur Agency Educational, Sihori, Deodar, Varahi, Santalpur Dispensaries, and Survey Funds ; and the Sadar Bazar Fund ;

(*b*) the village Police Funds, Kankrej, Deodar, Suigam, Varchi, Santalpur, controlled by the Political Agent, Sabar Kantha Agency ; and

(*c*) the Wadhwan Civil Station Fund controlled by the Political Agent, Eastern Kathiawar Agency.

(13-C) *Deleted* by F. D. (C.R.) Notification No. 13—Income-tax, dated the 24th December, 1938.

(13-D) The income of Regimental Institutes derived from rebates payable by Institute Contractors.

(13-E) The interest on securities held by the Kathiawar Education Provident Fund.

(13-F) The income of recognized Regimental Thrift and Savings Funds, the assets of which consist solely of deposits made by members and the profits earned by the investment thereof.

(13-G) The income of the Kolhapur Residency Area Fund.

(14) *Deleted* } by Government of India, Finance Department (Central Re-
(15) *Deleted* } venues), Notification No. 8—Income-tax, dated the 24th
(16) *Deleted* } January, 1942.

(16-A) *Deleted* by Government of India, Finance Department (Central Revenues), Notification No. 13—Income-tax, dated the 29th March, 1941.

(16-B) *Deleted* by Government of India, Finance Department (Central Revenues), Notification No. 8—Income-tax, dated the 24th January, 1942. **Div. 3 A**

(17) The salaries of the correspondent of the International Labour Office, New Delhi, and his staff.

(18) The salaries of the Organiser and Manager of the Branch Office of the League of Nations, Bombay, and his staff.

(19) The salaries of Khasadars, Levies and Badraggas employed in the tribal territory on the North-West Frontier and of all persons employed in the tribal levy service in Baluchistan.

(20) *Deleted*
(21) *Deleted*
(22) *Deleted*
(23) *Deleted*

by F.D. (C.R.) Notification No. 5—Income-tax, dated the 18th March, 1939.

(24) *Deleted* by Notification No. S.R.O. 272, dated the 28th February, 1951, with effect from the 1st March, 1951.

(25) The salaries of the light-house keepers of light-houses in the Red Sea.

(26) *Deleted* by Notification No. S.R.O. 272, dated the 28th February, 1951, with effect from the 1st March, 1951.

(27) The interest on Mysore Durbar Securities. (By Notification No. S.R.O. 2338, dated the 5th July, 1954, this item is *omitted* for the purposes of making any assessment subsequent to the year ending on the 31st March, 1954.)

(28) Pensions granted to officers of His Majesty's Naval, Military or Air Forces, British or Indian, or of the Auxiliary Force, India, or of the Indian Territorial Force, or of the Royal Indian Marine in respect of wounds or injuries received in action or in the performance of their duties as members of such forces otherwise than in action.

(28-A) *Extraordinary* pensions granted to Civil Officers excluding family pensions granted as the result of the death of such an officer under Chapter XXXVIII of the Civil Service Regulations, or the Army Regulations, India, as the case may be, in respect of wounds or injuries received in the performance of their duties.

(29) Pensions granted to members of His Majesty's Naval, Military or Air Forces, British or Indian, or of the Auxiliary Force, India, or of the Indian Territorial Force, or of the Royal Indian Marine, who have been invalided from service with such forces on account of bodily disability attributable to, or aggravated by, such service.

(30) Value of rations issued in kind or money allowances paid in lieu thereof, to any officer or other rank in His Majesty's Naval, Military or Air Forces, British or Indian, or in the Auxiliary Force, India, or in the Indian Territorial Force, or in the Royal Indian Marine.

(31) Value of rent-free quarters occupied by, or money allowance paid in lieu thereof to, Indian Officers, British Warrant and non-commissioned officers

Div. 3 A and men of His Majesty's Military or Air Forces, and British and Indian Warrant Officers of His Majesty's Naval and Marine Forces; in all cases irrespective of whether the individual concerned is married or single.

(32) Conservancy allowance granted in lieu of free conservancy to non-departmental Warrant and non-commissioned officers of the India Unattached List, departmental non-commissioned officers of the India Unattached List not in receipt of consolidated rates of pay and Warrant and non-commissioned officers of the permanent staff of the Auxiliary and Territorial Forces.

(33) The value of the free education provided for the children of British Warrant and non-commissioned officers and any grants-in-aid made to British Warrant and non-commissioned officers in lieu of the provision of free education for their children.

(34) *Deleted* by Government of India, Finance Department (Central Revenues), Notification No. 6—Income-tax, dated the 13th July 1940.

(35) Deferred pay within the meaning of paragraph 254, Pay and Allowance Regulations for the Army in India, Part II (*now Rules* 561-565, *Pay and Allowance Regulations, Volume I, read with A. I.* (*I.*) 221 *of* 1942) paid to (Indian) soldiers or non-commissioned officers of the Indian Army.

NOTE.—Indian Warrant Officers Class II who are also non-commissioned officers, though not called as such, are entitled to the deferred pay and are also eligible for the exemption.

(35-A) Shore allowance granted to Warrant Officers of the Royal Indian Navy when employed on Marine Survey duties under paragraph 89(*c*) of the Regulations for the Royal Indian Navy, Volume I.

(36) *Deleted* by Notification No. S.R.O. 1335, dated the 21st June, 1955, with effect from the 1st April, 1955.

(37) The perquisite represented by the right of any of the officers specified in the annexed list to occupy free of rent as a place of residence any premises provided by the Central Government, the Crown Representative or the State Government as the case may be.

List of Officers

The President.

The Commander-in-Chief.

The Governor of a Part A State.

Any first class Resident of the Indian Political Department Service.

(38) Such part of income in respect of which the said tax is payable under the head "property" as is equal to the amount of rent payable for a year 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 Income-tax 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 year during which that rent was due and income-tax has been duly paid on such assessed income. Div. 3 A

(39) The lump grants made by Government to the Indian Church—

(*1*) for the provision of episcopal supervision and ministrations ;

(*2*) for the payment of allowances to clergymen entertained in lieu of Chaplaincies reduced ; and

(*3*) in lieu of the grants-in-aid at present given for the entertainment of clergymen of the Additional Clergy Society under Articles 602 and 603 of the Civil Service Regulations.

(40) When in any year an assessee has ceased to be an employee participating in a recognised Provident Fund and has been declared by the employer maintaining the Fund not to be eligible to receive the whole of the accumulated balance due to him, so much of his income as is assessable for that year shall be exempted from income-tax and shall be excluded from the computation of his total income for the purposes of the said Act as is equivalent to so much of the accumulated balance due to him as has not been paid or is not payable to him, and if such amount exceeds the amount of his income in that year, so much of his income in the following year or years as is equal to the amount of such excess shall be so exempted and excluded in such year or years.

(41) Income of a Service Fund derived from interest on Government securities or interest on funds deposited with the Central or any State Government.

For the purpose of this exemption, a Service Fund means a fund established under the authority of, or with the permission of, the Central or any State Government for the purpose of securing deferred annuities to the subscribers, or payments to them in the event of their resignation or dismissal from the service in which they are employed, or provision for their wives or children after their death, or payments to their estate or their nominees upon their death, to which servants of the Government are alone admissible as subscribers or members and the funds of which are either deposited with the Central or any State Government or invested in Government securities.

II

Incomes included in total income but exempt from Income-tax and not from Super-tax

The following classes of income shall be exempt from the tax payable under the said Act, but shall be taken into account in determining the total income of an assessee for the purposes of the said Act :—

(1) Sums received by an assessee on account of salary, bonus, commission or other remuneration for services rendered, or in lieu of interest on money advanced, to a person for the purposes of his business,

where such sums have been paid out of, or determined with reference to, the profits of such business,

and by reason of such mode of payment or determination, have not been allowed as a deduction but have been included in the profits of the business on which income-tax has been assessed and charged under the head "business":

Div. 3 A

Provided that such sums shall not be exempt from the payment of super-tax unless they are paid to the assessee by a person other than a company and have already been assessed to super-tax. (Finance Department Notification No. 878-F., dated the 21st March, 1922, as amended by Notification No. 8, dated the 24th March, 1928.)

(2) Such part of the profits or gains of a firm which has discontinued its business, profession or vocation as is proportionate to the share of an assessee in the firm at the time of such discontinuance, if income-tax has at any time been charged on such business, profession or vocation under the Indian Income-tax Act, 1918 (VII of 1918), or if an assessment has been made on the firm in respect of such profits or gains under sub-section (1) of section 25 of the Indian Income-tax Act, 1922 (XI of 1922). (F.D. (C.R.) Notification No. 21, dated the 12th October, 1929.)

*(3) Interest receivable on the following securities issued by the Mysore Government :—

(*1*) The Mysore Government 5 per cent Loan of 1955.
(*2*) The Mysore Government 4 per cent Conversion Loan 1953-63.
(*3*) Mysore 3½ per cent Loan 1951-58.
(*4*) Mysore 3 per cent Loan 1956-61.
(*5*) The Mysore Government 3 per cent Loan of 1958.

*(By notification No. S.R.O. 2338, dated the 5th July, 1954, this item is inserted for the purposes of making any assessment subsequent to the year ending on the 31st March, 1954.)

III

Incomes exempt from Super-tax but not from Income-tax

(*Notification No.* 47, *dated the* 9*th December*, 1933)

The Governor General in Council is pleased to exempt from super-tax—

(*i*) so much of the income of any Investment Trust Company as is derived from dividends paid by any other company which has paid or will pay super-tax in respect of the profits out of which such dividends are paid.

Explanation.—For this purpose an Investment Trust Company means a company in respect of which the Governor General in Council is satisfied that :—

(*i*) it is a company having for its principal business the acquisition and holding of investments in the stocks, shares, bonds, debentures or debenture stocks of other companies or in securities issued by public authorities,

(*ii*) it is not a company formed for the purpose of, or engaged in, acquiring or exercising control over any other company or group of companies or enabling any other persons to acquire or exercise such control,

(*iii*) it is a company deemed under clause (*b*) of the *Explanation* to sub-section (1) of section 23-A of the said Act, to be a company in which the public are substantially interested.

(*Notification No.* 9, *dated the* 21*st February*, 1948)

In exercise of the powers conferred by sub-section (1) of section 60 of the Indian Income-tax Act, 1922 (XI of 1922), and in partial modification of the Notification of the Government of India in the late Finance Department (Central Revenues) No. 47, dated the 9th December 1933, the Central Government is pleased to order that the said Notification shall not, with effect from the assessment year 1948-49, apply to any Investment Trust Company the control and management of whose affairs is not situated wholly in the States of India.

Modification under section 60 of the Indian Income-tax Act, 1922

(*Notification No.* 23, *dated the* 11*th June*, 1927)

In exercise of the powers conferred by section 60 of the Indian Income-tax Act, 1922 (XI of 1922), the Governor General in Council is pleased to make the modification hereinafter defined in respect of income-tax in favour of the following class of income, namely income derived from a railway or tramway business.

Modification

An assessee deriving income from a railway or tramway business may at his option require that in computing the profits or gains of such business the following allowance shall be made in lieu of the allowances specified in clause (*v*), clause (*vi*) and clause (*vii*) of sub-section (2) of section 10 of the said Act, namely, the actual expenditure incurred by the assessee during the previous year on repairs, replacements and renewals of plant, machinery, buildings and furniture which are the property of the assessee :

Provided that an assessee who in any year has exercised the option hereinbefore conferred shall not be entitled save with the consent of the Commissioner of Income-tax to withdraw that option in any subsequent year :

Provided further that nothing in this notification shall apply to an electric tramway.

EXEMPTIONS NOTIFIED UNDER SEC. 60A OF THE INDIAN INCOME-TAX ACT, 1922

I

(*Notification No. S.R.O.* 669, *dated the* 1*st May*, 1951)

In exercise of the powers conferred by section 60A of the Indian Income-tax Act, 1922 (XI of 1922), the Central Government hereby makes the following exemption :—

No income-tax or super-tax shall be payable by an assessee on the interest receivable on the 3 per cent. tax-free loan 1966-76 issued by the former Government of Bhopal so long as such interest is received in the State of Bhopal and is not brought into any other part of the taxable territories. Such interest shall be included in the total income of the assessee for the purposes of sections 16 and 56 of the Indian Income-tax Act, 1922.

II

(*Notification No. S.R.O.* 2068, *dated the* 22*nd December*, 1951)

In exercise of the powers conferred by section 60A of the Indian Income-tax Act, 1922 (XI of 1922), the Central Government directs that any income received by the following persons as their maintenance allowance out of the public revenues shall be exempt from income-tax and super-tax and shall not be included in their total income or total world income :—

(1) Sir Tukoji Rao Holkar of Indore.
(2) His Highness Maharawal Shri Sir Indrasinhji Pratapsinhji, K.C.I.E., of Bansda upto 13th November, 1951.
(3) Rana Shri Ranjitsinhji Gambhirsinhji, C.I.E., of Jambughoda.
(4) His Highness Shri Sir Bhavani Sinhji Bahadur, K.C.S.I., of Danta.

This Notification shall have effect from the assessment year 1950-51 onwards.

III

(*Order* 68-*st*(*Int*)-*IT*/49, *dated the* 23*rd May*, 1952)

Any income falling within the following classes shall be exempt from income-tax and super-tax and shall not be included in the total income or total world income of the persons receiving them :—

(1) In the case of members of the ruling family of Travancore, any allowance paid by Government to—
  (*a*) His Highness the present Elayeraja
  (*b*) Her Highness the present senior Maharani
  (*c*) H.H. the present Junior Maharani
  (*d*) H.H. the present first princess
  (*e*) H.H. the present second princess
  (*f*) H.H. the present third princess
  (*g*) the present children of the Princesses mentioned at items (*d*) and (*e*) above
  (*h*) H.H. Prince Moolam Thirumal
  (*i*) the four present koilthampurans
  (*j*) the consort of H.H. the present Elayeraja.
(2) In the case of Cochin, any allowance paid by Government to the present members of the family of the Maharaja of Cochin.

IV

(*C*-40-*st*(*Int*)-*IT*/52, *dated the* 22*nd August*, 1952)

The allowance of $\frac{\text{Rs. 5 Lakhs}}{\text{Rs. 1 Lakh}}$ paid to $\frac{\text{H.H. the Maharana of Udaipur}}{\text{H.H. the Maharaja of Kolhapur}}$ to meet certain traditional religious and charitable expenses because of the special positions of honour he occupied amongst $\frac{\text{Rajput}}{\text{Maharatha}}$ Rulers, should be treated as a part of the privy purse, and as such should not be included in the total income for purposes of income-tax assessments. This concession is meant for the present Ruler only during his life time.

V

(*Notification No. S.R.O.* 1151, *dated the* 13*th June*, 1953)

In exercise of the powers conferred by section 60A of the Indian Income-tax Act, 1922 (XI of 1922), the Central Government hereby makes the following exemption :—

No income-tax shall be payable by an assessee on the interest receivable on the following income-tax free loans issued by the former Government of Travancore or by the former Government of Cochin, provided that such interest is received within the territories of the State of Travancore-Cochin and is not brought into any other part of the taxable territories to which the said Act applies. Such interest shall, however, be included in the total income of the assessee for the purposes of section 16 of the Indian Income-tax Act, 1922 :—

3 per cent tax free loan 1952-54 issued by the former Government of Travancore.

3½ per cent tax free loan 1956 issued by the former Government of Travancore.

3 per cent tax free loan 1953-55 issued by the former Government of Cochin.

3 per cent tax free loan 1955-58 issued by the former Government of Cochin.

3½ per cent tax free loan 1956-61 issued by the former Government of Cochin.

VI

(*Notification No. S.R.O.* 174, *dated the* 9*th January*, 1954)

In exercise of the powers conferred by section 60A of the Indian Income-tax Act, 1922 (XI of 1922), the Central Government hereby makes the following exemption, namely :—

No income-tax shall be payable by an assessee on the interest receivable on the income-tax free loans specified in the Table hereunder and issued by His Exalted Highness the Nizam's Government of Hyderabad :

Provided that the said interest is received in the territories within the Hyderabad State and is not brought into any other part of the taxable territories to which the said Act applies :

Provided further that such interest shall be included in the total income of the assessee for the purposes of section 16 of the said Act.

TABLE

1. 3 per cent income-tax free loan 1360-70 Fasli
2. 2½ per cent income-tax free loan 1353 Fasli
3. 2½ per cent income-tax free Development loan 1364-69 Fasli
4. 2½ per cent income-tax free Second Development loan 1365-70 Fasli.

Div. 3 A

VII

(*Notification No. S.R.O.* 2339, *dated the* 5*th July*, 1954)

In exercise of the powers conferred by section 60A of the Indian Income-tax Act, 1922 (XI of 1922), the Central Government hereby makes the following order, namely :—

No income-tax shall be payable by an assessee on the interest receivable on all deposits in the Mysore Government Savings Bank made before the 1st day of April, 1950, and on 5 years Mysore Government Savings Certificates issued prior to that date :

Provided that, in the case of an assessee who would not have been resident in the taxable territories within the meaning of section 4A of the said Act but for the application of that Act to the Mysore State, the said interest is received within the territories of that State :

Provided further that, in the case of any other assessee, the said interest is received within the territories of the Mysore State and is not brought into any other part of the taxable territories to which the said Act applies :

Provided also that such interest shall be included in the total income of an assessee referred to in proviso last preceding and shall not be exempt from super-tax.

VIII

(*Notification No. S.R.O.* 2340, *dated the* 5*th July*, 1954)

In exercise of the powers conferred by section 60A of the Indian Income-tax Act, 1922 (XI of 1922), the Central Government hereby makes the following order, namely :—

No income-tax shall be payable by an assessee on the interest receivable on the fourth and fifth series of debentures carrying interest at 3½ per cent per annum issued by the Mysore Central Co-operative Land Mortgage Bank Ltd. and guaranteed by the Mysore Government :

Provided that, in the case of an assessee who would not have been resident in the taxable territories within the meaning of section 4A of the said Act but for the application of that Act to the Mysore State, the said interest is received within the territories of that State :

Provided further that, in the case of any other assessee, the said interest is received within the territories of the Mysore State and is not brought into any other part of the taxable territories to which the said Act applies :

Provided also that such interest shall be included in the total income of such assessee and shall not be exempt from super-tax.

B

EXEMPTION UNDER SEC. 4(3)(*vi-a*)

(*Notification No. S.R.O.* 3536, *dated the* 21*st November*, 1955)

In exercise of the powers conferred by clause (*vi-a*) of sub-section (3) of section 4 of the Indian Income-tax Act, 1922 (XI of 1922), the Central Government hereby prescribes the following conditions for the exclusion from the total income of a person not being a citizen of India (hereinafter called "employee"), of passage moneys or the value of free or concessional passages received by or due to him from his employer for himself, his wife and children in connection with his proceeding on home leave out of India, namely :—

1. An employee shall not be entitled to exemption under the said clause in respect of the first occasion on which he proceeds on home leave after the relevant date unless he has completed in all at least forty-two months of service with an employer in India and unless a period of at least thirty months has elapsed in employment since the date of commencement of the home leave immediately preceding the first occasion referred to above.

2. Where an employee has obtained exemption under the said clause in respect of any home leave taken after the relevant date, he shall not again be entitled to exemption under the said clause unless a period of at least thirty months has elapsed in employment since the date of commencement of the home leave immediately preceding the home leave for which exemption is sought.

3. Except where he has attained the age of fifty-five years or completed twenty-five years of service in India before proceeding on home leave, an employee shall not be entitled to exemption under the said clause in respect of any particular home leave unless he returns to duty in India under the same employer on the expiry of that home leave.

4. The amount to be exempted in respect of each home leave shall not exceed the aggregate of the passage moneys or the value of the passage concessions, as the case may be, provided by the employer and availed of by the employee, reckoned as under :—

(*i*) the cost of one set of passage for the employee himself ;

(*ii*) the cost of one set of passage for the employee's wife ;

(*iii*) the cost of one set of passage per child for not more than two children below the age of twelve years.

Explanation.—For the purposes of this condition—

(*a*) a "set of passage" means the passage from the place where the employee is working in India to the destination in his home country and the passage for the corresponding return journey ;

(*b*) in any case where children are entitled to concessional fares, the cost of each set of passage shall be based upon such fares ;

(*c*) where the employer does not provide the full fares for the purpose, "the cost of passage" shall mean the value of the concession to the employee in the matter of fares for himself, his wife or children, as the case may be.

Div. 3 B

5. The amount to be exempted in respect of each set of passage on any particular occasion of home leave shall not exceed—

(*i*) the actual cost of the journey by air or sea and of any incidental journey by land, to the persons concerned, or

(*ii*) the cost of the journey calculated at standard fares, whichever is less :

Provided that the actual cost of the journey by air or the cost of journey by air at standard fares shall not be taken into account unless on the date of commencement of the home leave the employee is in receipt of or entitled to receive from his employer a salary of Rs. 2,500 or more per month, exclusive of all allowances, and other benefits or perquisites.

6. The cost of journey at standard fares shall be determined on the following basis, namely :—

A. *Journey by air.*—In any case where the journey is actually performed by air, the fare according to the published rates for the time being in force—

(*i*) for First Class Accommodation by Air India International for to and fro journeys between airports in India and airports in other countries served by it ;

(*ii*) for Standard Class Accommodation by British Overseas Airways Corporation for to and fro journeys between airports in India and airports in Australia ;

(*iii*) for Standard Class Accommodation by Pan American World Airways for to and fro journeys between Calcutta and U.S.A. ;

(*iv*) for Standard Class Accommodation by K.L.M. Royal Dutch Airlines for to and fro journeys between Calcutta and Holland ; and

(*v*) for Standard Class Accommodation by Scandinavian Airlines System for to and fro journeys between Calcutta and airports in Denmark, Norway or Sweden.

B. *Journey by sea.*—The fare according to the published rates for the time being in force—

(*i*) for First Class B Grade Accommodation in a steamer belonging to the P. & O. Lines for to and fro journeys between India and the United Kingdom ;

(*ii*) for First Class Accommodation in a steamer belonging to the Ellerman Bucknall Lines for to and fro journeys between India and the United States of America or Canada ;

(*iii*) for First Class B Grade Accommodation in a steamer belonging to the P. & O. Lines for to and fro journeys between India and Australia or the Far East (including Japan) ;

(*iv*) for First Class Accommodation in a steamer belonging to the Wilhelmsen Lines for to and fro journeys between India and Northern or North-Western Europe.

For the purposes of this clause—

(*a*) the port of embarkation in India shall be the airport served by the Airline concerned which is nearest to the place where the employee is normally residing in India, as the case may be, for journey by air, and the port of

Bombay for West-bound trips and the port of Calcutta or Madras (whichever is nearer to the place where the employee is normally residing in India) for East-bound trips for journey by sea ; **Div. 3 B**

(*b*) the port of disembarkation shall be taken to be the first port (air or sea) of calling in the country of destination ;

(*c*) for determining the cost of journey at standard fares for the return journey, the same ports in India and the home country shall be taken into account ;

(*d*) the fare to be taken into account shall be that in force at the commencement of the homeward journey or the return journey, as the case may be. If the commencement of the homeward or return journey falls in and off, low or holiday season for which reduced fares are provided by the air or steamer services concerned, such reduced fares only shall be taken into account.

C. *Incidental journey by land.*—For incidental journeys by land to the port of embarkation and from the port of disembarkation, and *vice versa*—

(*i*) the fare by air-conditioned accommodation by rail transport, if on the date of commencement of the home leave the employee is in receipt of or entitled to receive from his employer a salary of Rs. 1,800 or more per month, exclusive of all allowances and other benefits or perquisites ;

(*ii*) the fare for first class accommodation by rail transport in other cases, and also in cases where air-conditioned accommodation is not provided on the concerned Railways or is not availed of by the persons concerned.

7. (1) An employee shall not be entitled to exemption under the said clause if, since his entering service in India, the total number of occasions of home leave in respect of which passage concessions were provided by the employer and were wholly or partly availed of by him (whether before or after the relevant date) exceeds—

(*a*) during the first twenty-five years of service,

(*i*) four, in cases where the passage moneys (in respect of passages after the relevant date) have been or are on any one or more occasions paid in cash by the employer direct to the employee ;

(*ii*) eight, in other cases :

Provided that, where the total number of occasions of home leave availed of before the relevant date is more than four in either case, the employee shall be entitled to exemption under the said clause in respect of home leave taken after the relevant date on not more than two occasions in cases falling under item (*i*) and not more than four occasions in cases falling under item (*ii*) ;

(*b*) during the remainder of his service, the number arrived at at the rate of one home leave for every $2\frac{1}{2}$ years of active service (excluding periods of leave) commencing from the 26th year of service in India.

(2) Except where the context otherwise requires, the exemption to an employee under the said clause in respect of passages or concessions granted to his wife or children by the employer shall be regulated in the same manner as in the case of the employee himself in accordance with these conditions.

(3) For purposes of conditions 1, 2 and 7, any stay by an employee in his home country after the relevant date for more than sixty days otherwise than on home leave, shall also be treated as stay on an occasion of home leave.

Div. 3 B

8. An employee shall be entitled to exemption under the said clause only if the concessions are availed of on the occasion of his proceeding on home leave out of India. He shall not be entitled to exemption in respect of any amount paid to him in consideration of his refraining from proceeding on home leave.

9. An employee shall not be entitled to any exemption in respect of any passage concessions given to his wife and children unless the journey performed by the wife and/or children precedes the departure or follows the return journey by the employee on the occasion of home leave within a period of not more than twelve months.

10. An employee who claims exemption under the said clause shall furnish to the Income-tax Officer particulars of his home leave in the form annexed.

11. (*a*) Where free or concessional passages on home leave are admissible to an employee, his wife and children in accordance with rules framed by the employer or under a contract of employment or any other agreement in writing and in the opinion of the Central Government such rules or the terms of such contract or agreement conform to a substantial degree to the preceding conditions in this notification, it may approve the said rules or the contract or agreement and order that the conditions of this notification, shall, for such period as may be mentioned in the order, be deemed, to have been complied with in respect of any free or concessional passages on home leave provided by the employer in accordance with those rules, contract or agreement.

(*b*) If the Central Government is satisfied that the application of these conditions will result in undue hardship in any case, it may relax any or all of these conditions and pass such orders thereon as it thinks fit.

12. For the purposes of conditions 1, 2 and 7, relevant date shall be the 1st day of April, 1955 :

Provided that where the home leave already availed of by the employee commenced before but ended after that date, the relevant date shall be the date on which the said home leave ended.

FORM P

Particulars required to be submitted along with a claim for exemption of passage concessions

PART I

1. *Assessment year :*
2. *Name and address of employee :*
3. *Nationality and home country .*
4. *Particulars of the home leave journey under exemption claim :*

		For self (*i*)	*For wife* (*ii*)	*For children* (names and ages on date of commencement of the home leave to be given) (*iii*)
(*i*)	Period of leave			
(*ii*)	Dates of journey			
(*iii*)	Period of stay in home country.			
(*iv*)	Whether cash paid to employee or passage provided			
(*v*)	Amount for which *exemption claimed			
(*vi*)	Actual cost*			
(*vii*)	Standard fares* as per para 6 ..			

*By rail / By sea / By air

PART II

Details of service in India from the beginning upto 31st March, 1955

Name of employer	Period of service with dates	Particulars of free or concessional passage availed of	
		(*i*) Period of leave	(*ii*) Date of journey

Any break in service in between changes in employment, if any, should also be shown.

NOTE.—This part is to be filled in only with the *first* claim for passage exemption.

PART III

Particulars of any journeys by an employee to home country otherwise than on home leave after 1st April, 1955

Period of journey	Dates	Period of stay in home country	Purposes
(1)	(2)	(3)	(4)

I hereby affirm that the particulars furnished in the above statement are true to the best of my knowledge.

Signature of employee

Certified that to the extent the above particulars relate to period of service under the present employer, they are correct.

Signature of employer

C

THE INCOME-TAX ALLOWANCES (CURRENT PROFITS DEPOSIT) RULES, 1957

(*Notification No. S.R.O.* 35, *dated the* 4*th January*, 1958)

In exercise of the powers conferred by sub-section (2C) of section 10 of the Indian Income-tax Act, 1922 (11 of 1922), and in supersession of the rules published in the notification of the Government of India in the Ministry of Finance (Department of Revenue) No. S.R.O. 2110, dated the 29th June, 1957, the Central Government hereby makes the following rules, namely :—

1. These rules may be called the Income-tax Allowances (Current Profits Deposit) Rules, 1957.

Definitions

2. In these rules,—

(1) "Act" means the Indian Income-tax Act, 1922 (11 of 1922) ;

(2) "approved purpose" means any purpose which involves the utilisation of the financial resources of a company for—

(*i*) capital expenditure for the construction, erection or acquisition, by way of replacement or otherwise, of buildings, land, plant, machinery and other fixed assets required for the purpose of the existing business of the company ;

(*ii*) repayment of moneys borrowed by the company on the security of its fixed assets for the purpose of carrying on such business ;

(*iii*) and includes any other purpose including repayment of borrowings other than those referred to in (*ii*) aforesaid, the application of the financial resources of a company on which is, in the opinion of the Commissioner of Income-tax or Board of Referees, having regard to the nature of the company's business (and such other circumstances as he or the Board of Referees may consider relevant), justified :

Provided that where the total income of a company includes any income which arises outside India, in a country the laws of which prohibit or restrict the remittance of money to India, such income (as reduced by the amount of tax payable thereon in that country) shall, to the extent it cannot be brought to India by reason of such prohibition or restriction, be regarded as having been utilised on an approved purpose ;

(3) "Bank" means the Reserve Bank of India and includes its agencies carrying on agency business on behalf of the Reserve Bank of India ;

(4) "Board of Referees" means the Board of Referees appointed under rule 17 ;

(5) "current profits deposit" or "deposit" means the deposit which a company has to make with the Central Government under sub-section (2B) of section 10 of the Act at a percentage of the amount by which the statutory surplus, as hereinafter defined, exceeds the sum of rupees one lakh ;

(6) "due date" with reference to deposit means the 30th day of June of the assessment year relevant to the previous year or the date of expiry of a period of six months from the end of the said previous year, whichever is later ;

(7) "Form" means a Form appended to these rules ;

(8) "statutory surplus" means the aggregate of the following amounts, namely :—

(*a*) the total income of the company for the previous year, as reduced by the amount of income-tax and super-tax payable in respect thereof (the total income and tax being computed by the assessee for this purpose) and by the dividends, if any, declared or deemed to be declared in India during the previous year, and

(*b*) the sum of the allowances claimed by the company under clauses (*vi*), (*vi-a*), (*vi-b*) or (*vii*) of sub-section (2) of section 10 of the Act.

Computation of the Deposit in certain cases

3. For the purpose of determining the current profits deposit in the case of a company incorporated outside India, the dividends deemed to be declared in India during any previous year shall be—

(*i*) if the company is resident, the dividends, if any, declared by it at the place of its incorporation during the previous year, and

(*ii*) if the company is non-resident, the amount, if any, which the company has, with the permission of the Reserve Bank of India, remitted outside India during the previous year out of its current income, profits and gains.

4. Where any portion of the profits and gains of a company is not included in its total income by reason of such portion being exempt from tax under any provision of the Act, the amount of the dividends declared or deemed to be declared in India during the previous year shall, for the purpose of determining the current profits deposit, be deemed to be such proportion thereof as the total income of the company for the previous year bears to its total profits and gains for that year reduced by such allowances as may be admissible under the Act which have not been taken into account by the company in its profit and loss account for that year.

Procedure for making the Deposit

5. The deposit shall be made by the company on or before the due date without any notice or requirement therefor from the Income-tax Officer who shall make available to the company on request the requisite number of challans to enable it to make the deposit.

6. The amount to be deposited shall be calculated in whole units of rupees, fractions of a rupee being ignored.

7. The amount shall be deposited with the Bank who will credit it to the Government account under the head of account :

P. Deposits and Advances—B. Other Deposits Accounts—Other Deposits—Deposits under the Income-tax Allowances (Current Profits Deposit) Rules, 1957.

8. The company shall, within fifteen days of making a deposit, furnish to the Income-tax Officer a statement in Form A showing the basis on which it computed the amount of the deposit and a receipt from the Bank for the amount deposited.

9. If it so desires, a company may, in lieu of making a deposit of money in the Bank, deposit Government securities of the requisite market value with the Bank, which shall hold such securities in its custody, and the provisions of these rules relating to refunds shall apply to the return of such securities as they apply to refund of deposits. No interest shall be payable by the Government on the securities deposited under these rules except the interest due on the securities

Div. 3 C according to the terms of their issue which will be periodically realised and paid by the Bank after deduction of the usual collection charges.

10. (1) Where the sum of the amounts, if any, actually deposited and deemed under rule 11(2) to have been deposited by a company is less than the amount found due to be deposited on the basis of the total income as computed by the Income-tax Officer for purposes of an assessment under section 23, the Income-tax Officer may direct the company to deposit within 30 days of receipt of his direction, an amount equal to such deficiency, together with interest thereon at 6 per cent for the period commencing on the due date and ending with the date on which such additional deposit is made:

Provided that where the company has made a representation under sub-rule (1) of rule 11 and as a consequence the amount actually utilised or required to be utilised on approved purposes determined under sub-rule (2) or sub-rule (4) of the said rule is equal to or exceeds the statutory surplus as computed by the Income-tax Officer, there shall be no direction from the Income-tax Officer for an additional deposit under this sub-rule.

(2) Notwithstanding that the period allowed in sub-rule (1) for making the additional deposit has not expired, the Income-tax Officer may complete the assessment of the company for the relevant year as if no deposit has been made or is deemed to have been made on the due date under sub-section (2B) of section 10 of the Act:

Provided that in such a case the collection of that portion of the tax as is attributable to the sum of the allowances under clauses (*vi*), (*vi-a*), (*vi-b*) and (*vii*) of sub-section (2) of the said section 10, which have been disallowed as aforesaid in computing the total income, shall be deferred till the expiry of the period given for making the additional deposit; and if such additional deposit is made within the period allowed, the assessment shall be rectified by reducing the total income by the amount of allowances aforesaid.

(3) Where the amount of deficiency mentioned in sub-rule (1) together with interest thereon calculated as aforesaid is not deposited by the company within the period allowed, the company shall be deemed not to have made any deposit under sub-section (2B) of section 10 for the relevant year, and thereupon the Income-tax Officer shall issue an intimation to that effect to the Board of Referees, and the Board of Referees shall issue to the Bank an order for refund of the amount, if any, deposited by the company for that year, and such amount shall not carry any interest.

11. (1) Where a company having utilised on purposes mentioned in clauses (*i*) and (*ii*) of sub-rule (2) of rule 2 the whole or a substantial portion of its moneys represented by reserves and accumulated profits and any finances otherwise available to it—

(*a*) has also utilised on such aforesaid purposes; or

(*b*) requires for application before the due date on such aforesaid purpose or on a purpose which it requires to be declared as an approved purpose within the meaning of clause (*iii*) of sub-rule (2) of rule 2—

the whole or a part of the moneys attributable to the statutory surplus relating to that previous year and in consequence thereof finds that the balance of the

moneys attributable to the statutory surplus is or will be insufficient to make the full amount of the current profits deposit due for that year, it may before the 15th of April, following the previous year or within three months from the end of the previous year, whichever is later, make a representation in Form B to the Commissioner of Income-tax in that behalf furnishing therein adequate proof to establish the facts aforesaid. Div. 3 C

(2) The Commissioner of Income-tax shall consider the representation made by the company under sub-rule (1), and after making such enquiries or calling for such information from the company as he may consider relevant, he shall—

(*i*) determine, where necessary, the total amount of moneys which have been utilised or are required to be utilised on approved purposes ;

(*ii*) determine the portion of the moneys attributable to the statutory surplus which have been so utilised or required to be utilised ;

(*iii*) determine the balance of the moneys attributable to the statutory surplus which remains after excluding therefrom the portion mentioned in (*ii*) ;

(*iv*) determine the amount by which the balance mentioned in (*iii*) falls short of the current profits deposit ; and

(*v*) direct that the amount mentioned in (*iv*) shall be deemed to have been deposited by the company on the due date and refunded to it on the same date.

(3) Where under sub-rule (2) the Commissioner of Income-tax does not allow the company's representation in full, he shall, within ten days of his making the order under sub-rule (2), transmit to the Board of Referees the company's representation together with all the relevant documents on which he bases his decision.

(4) On receipt of the papers transmitted to them under sub-rule (3) the Board of Referees may, after making such enquiries or calling for such information from the company or the Commissioner of Income-tax as they consider necessary and after giving an opportunity to the company of being heard in the matter, pass such orders thereon as they think fit and the provisions of clauses (*i*) to (*v*) of sub-rule (2) shall apply to the decision of the Board of Referees as they apply to the decision of the Commissioner of Income-tax.

(5) Notwithstanding that a representation made to the Commissioner of Income-tax under sub-rule (1) is pending, or that a direction has been made by the Commissioner of Income-tax under sub-rule (2), or that an order has been passed by the Board of Referees under sub-rule (4), the company shall not be exempted from the consequences of not making the full amount of deposit due under sub-section (2B) of section 10 of the Act—

(*a*) unless

(*i*) the balance of moneys attributable to the statutory surplus not utilised nor required for application on 'approved purposes' according to the computation of the company under sub-rule (1), *plus*,

(*ii*) the portion not exceeding the excess of the current profits deposit over the amount referred to in (*i*) of the moneys required by it for application on the purposes referred to in clause (*b*) of sub-rule (1) which are not so applied before the 30th day of June following the previous year or the expiry of six months from the end of the previous year as the case may be,

Div. 3 C

are actually deposited with the Bank in accordance with the provisions of rule 5 ; and

(*b*) unless the amount by which that part of the current profits deposit which under sub-rule (4) is not deemed by the Board of Referees to have been deposited by the company exceeds the amount specified in clause (*a*) above, is actually deposited with the Bank on or before the due date or within 15 days of receipt by the company of the order of the Board of Referees under sub-rule (4), whichever is later.

12. Where two or more companies amalgamate, the amounts deposited by them shall be treated as having been deposited by the new amalgamated concern.

Interest

13. Except as otherwise provided in these rules, any amount deposited shall carry simple interest at the rate which may be notified by the Central Government for each financial year. The interest shall be allowed from the day commencing next after the date on which the deposit is actually made ; and such interest shall be computed on the basis of daily balances and paid by the Bank as on 31st March and 30th September by debit to the head of account :

22. Interest on Debt and Other obligations—C. Interest on other obligations —Interest on Deposits under the Income-tax Allowances (Current Profits Deposit) Rules, 1957.

Refunds

14. If at any time the company requires the whole or part of the deposit already made for carrying out any of the purposes referred to in clauses (*i*) and (*ii*) of sub-rule (2) of rule 2 or any purpose which it requires to be declared as an approved purpose within the meaning of clause (*iii*) of that sub-rule, it may apply to the Board of Referees in Form 'C' for a refund of such amount, or the return of such securities as are required by it for carrying out the said purposes, and if the Board of Referees is satisfied that the said requirement cannot be met out of the available resources of the company, they may issue an order of refund on the Bank authorising it to refund such amount and to return such securities as the Board considers necessary in the circumstances of the case.
The amount refunded shall be debited to the head of account :

"P. Deposits and Advances—B. Other Deposits Accounts—Other Deposits —Deposits under the Income-tax Allowances (Current Profits Deposits) Rules, 1957.

15. Where the total income of a company determined by the Income-tax Officer in the assessment made by him under section 23 of the Act is finally reduced as a result of any other proceedings under the Act, and the deposit originally made by the company exceeds the amount of the current profits deposit calculated with reference to the total income as so reduced finally, and the amount of deposit actually held by the Bank exceeds the current profits deposit so calculated, the Income-tax Officer shall, on an application being made in this behalf by the company in Form 'D', determine the amount of such excess and communicate it to the Board of Referees who shall issue to the Bank an order for the refund to the company of such excess.

16. Any amount deposited by a company under sub-section (2B) of section 10 of the Act, shall, to the extent it has not been previously refunded under these rules, be refunded to it on the 1st day of April, 1966, or on such later date as may be notified by the Central Government.

Board of Referees

Div. 3 C

17. The Central Government shall appoint a Board of Referees consisting of as many members (one of whom shall be designated as the Chairman) as the said Government may appoint from time to time for performing the duties allotted to them under these Rules.

18. The Board of Referees shall work under the general control of the Central Government.

Miscellaneous

19. No appeal shall lie against an order of the Board of Referees passed under sub-rule (4) of rule 11 or rule 14, which shall be final as respects the matters concluded by it.

FORM 'A'

(*See rule* 8)

Statement made to the Income-tax Officer under rule 8 *of the Income-tax Allowances (Current Profits Deposits) Rules,* 1957, *showing the Company's computation of the Current Profit Deposit under sub-section* (2B) *of section* 10 *of the Indian Income-tax Act,* 1922.

Name of Company . . . . . .
Registered Office . . . . . .

The Current Profit Deposit made by the Company in respect of the year ended 31st March . . . . . is as follows :—

1. Net Profit of the Company according to its Profit and Loss Account for the previous year ended			Rs.	
2. Adjustments to above to arrive at the total income of the Company for income-tax purposes—				
. . . . .		Rs.		
. . . . .		Rs.		
. . . . .		Rs.		
. . . . .		Rs.		
			Rs.	
3. Total income for income-tax purposes			Rs.	
4. *Add :* Allowances under section 10(2) (*vi*), (*vi-a*), (*vi-b*) and (*vii*) of the Income-tax Act, deducted in arriving at the total income above			Rs.	
5. Total of 3 and 4			Rs.	
6. Deductions under section 10(2B):				
(*a*) Total dividends declared or deemed to be declared in India during the previous year . .		Rs.		
(*b*) Income-tax and super-tax payable by the Company on the total income—				
Income-tax	Rs.			
Surcharge	Rs.			
Corporation tax less rebate . .	Rs.			
		Rs.	Rs.	
7. Excess of 5 over 6			Rs.	
LESS			Rs.	1,00,000

Div. 3 C

BALANCE	Rs.
8. Amount to be deposited at... . . % on Rs.	Rs.
9. Amount deposited on (date)	Rs.
10. Difference, if any, for which exemption is separately claimed or obtained [enclose copy of application under Rule 11(1) if any]	Rs.

Place .. . . *Signature* . . ..

Date .. .. for . . .. Ltd.

To
The Income-tax Officer,
... .
. . . .

FORM 'B'

(*See rule* 11(1))

Application under sub-rule (1) *of Rule* 11 *of the Income-tax Allowances* (*Current Profits Deposit*) *Rules*, 1957, *for deeming that a company made a deposit under sub-section* (2B) *of section* 10 *of the Indian Income-tax Act, 1922*

To
The Commissioner of Income-tax,
. . . . . .

1. We, ... Limited, having our registered office at. . . .. , do hereby declare :—

(*i*) that according to our calculations, the statutory surplus of the company computed under the aforesaid rules is Rs. ....; (vide Statement 1 enclosed herewith)

(*ii*) that the company will be required to make a deposit with the Government of India under sub-section (2B) of section 10 of the Income-tax Act, 1922, for the year ending on the 31st March. ....of a sum of rupees. . ... against the current profits of the year ending on.... ...., vide Statement No. 2 enclosed herewith ;

(*iii*) that on the date of this application, the total amount of moneys which have been utilised or are required to be utilised by the company for carrying out approved purposes is Rs... . ...vide Statement No. 3, Item 1 ;

(*iv*) that the portion out of (*iii*) which is attributable to the statutory surplus is Rs.. . . .. vide Statement No. 3, Item 3 ;

(*v*) that the balance of the moneys attributable to the statutory surplus which remains after excluding therefrom the portion mentioned in clause (*iv*) is Rs... . . . .

(*vi*) that the amount by which the balance mentioned in clause (*v*) falls short of the deposit required to be made by the company [clause (*ii*)] is Rs..... ....

2. We therefore pray that under sub-rule (1) of rule 11 of the Income-tax Allowances (Current Profits Deposit) Rules, 1957, the Commissioner of Income-tax may direct that it shall be deemed that the company has deposited on ....for the year ending on 31st March..... ... . a sum of rupees.. .... against the current profits, and that refund of like amount has been granted to the company on the same date.

Place..... ....
Date..... ....

Signature. ....

for .... Ltd.

Div. 3 C

STATEMENT No. 1

Computation of the Statutory surplus of the Company

1. Net profit of the Company according to its profit and loss account for the previous year ended .. .. Rs.
2. Adjustments to above to arrive at the total income of the Company for income-tax purposes :
   . . .. Rs.
   . ... Rs.
   . ... Rs. Rs.
3. Total income for income-tax purposes .. .. .. Rs.
4. Add allowances under section 10(2)(*vi*), (*vi-a*), (*vi-b*) and (*vii*) of the Income-tax Act, deducted in arriving at the total income .. .. Rs.
5. Total of 3 and 4 .. .. Rs.
6. Deductions under section 10(2B):
   (*a*) Total dividends declared or deemed to be declared in India during the previous year.. .. . Rs.
   (*b*) Income-tax and super-tax payable by the company on the total income—
   Income-tax .. .. .. Rs.
   Surcharge . . Rs.
   Corporation tax, less rebate . Rs. Rs. Rs.
7. Excess of 5 over 6, representing the statutory surplus .. .. .. Rs.

(*Place*) .. . . *Signature* . . . .
(*Date*) . .. . for . . Ltd.

STATEMENT No. 2

Computation of the Current Profits Deposit

1. Statutory surplus as per Statement No. 1 .. .. Rs.
   LESS .. .. Rs. 1,00,000
   BALANCE . . .. Rs.
2. Amount required to be deposited at % on Rs. Rs.

(*Place*) . *Signature*
(*Date*) . .. . For . Ltd.

STATEMENT No. 3

1. The Company's total requirements for approved purposes :
   (*i*) Amount already utilised since commencement of the previous year and upto the date of application on purposes mentioned at clauses (*i*) and (*ii*) of sub-rule (2) of rule 2. (Details furnished separately) Rs.
   (*ii*) Amount further required to be utilised before the due date on such aforesaid purpose or on a purpose which the company requires to be declared as an approved purpose within the meaning of clause (*iii*) of sub-rule (2) of rule 2. (Details furnished separately) .. Rs.

TOTAL Rs.

2. Investments of the company according to the balance sheet as at ... :
   (*i*) Government securities .. .. Rs.
   (*ii*) Debentures of companies & local authorities .. Rs.
   (*iii*) Shares of other companies .. .. Rs.
   (*iv*) Loans, deposits and other non-trading advances.. Rs.
   (*v*) Other properties or assets the income from which is not chargeable to income-tax as profits or gains of the business carried on by the company .. Rs.
   (*vi*) Cash in hand and at bank .. .. Rs. Rs.

Div. 3 C

Less : Investments or moneys claimed by the company to be necessary for the existing business or as being locked up outside India in a country the laws of which restrict or prohibit remittance of funds to India (details should be annexed) .. .. Rs.

Balance, representing the amount of available resources not already utilised in approved purposes as at the commencement of the previous year .. Rs.

Add : Any fresh capital or loans or other finances raised or to be raised by the company after the last day of the year preceding the previous year and before the due date .. .. Rs.

Total .. Rs.

3. Excess of 1 over 2 .. .. Rs.

4. Amount of moneys out of 3 above, representing the portion attributable to the statutory surplus which has been utilised or is required to be utilised by the company for carrying out approved purposes. (In cases where the profits and gains of a company include income which is not included in its total income, e.g. agricultural income, the amount in item 4 should first be determined as if the whole profits and gains of the company were includible in the total income. Having done so, only that portion of the amount so determined should be shown against item 4, as the total income of the company for the previous year to its total profits and gains for that year, reduced by such allowances as may be admissible under the Act, which have not been taken into account by the company in its profit and loss account for that year.)

Details regarding these purposes and expenditure already incurred or required to be incurred etc. should separately be furnished.

(*Place*) . . .. *Signature* . .

(*Date*) . For . .. . . . Ltd.

FORM 'C'

(*See rule* 14)

Application for Refund under Rule 14 *of the Income-tax Allowances* (*Current Profits Deposit*) *Rules*, 1957

To

The Board of Referees,

. . . . .

We, ... Limited, having our registered office at .. . . enclose herewith a Memorandum of Deposit issued on .... . by the .. . . showing the amount of cash and securities held in deposit on . . . .. . out of the deposits made by us under sub-section (2B) of section 10 of the Indian Income-tax Act, 1922, and do hereby declare :—

(I) that the available resources of the company are insufficient to defray the expenditure for carrying out the approved purposes of the company (to the extent of Rs. ... . as shown in Statement 1 enclosed) ;

(II) therefore, that out of the amount and the securities shown in the Memorandum mentioned above, a sum of Rs... .... and the securities listed in Statement 2 enclosed are required for carrying out the purposes mentioned in Statement 1.

2. We, therefore, pray for a refund of the sum of Rs.... ... .and the return of the securities listed in Statement 2.

3. We hereby declare that the amount refunded and the securities returned will be utilised for carrying out the purposes aforesaid within six months of the date of the refund of money and the return of the securities.

(*Place*) . . .. *Signature*..... ...

(*Date*) .... For ..... . Ltd.

Div. 3 C

STATEMENT No. 1

Computation of the available resources of the Company and requirement for approved purposes as on the date of the application

1. The company's total requirements for approved purposes :

Purpose for which expenditure is likely to be incurred	Amount required Rs.	Period during which the expenditure is likely to be incurred
.. . .	.. ..	. ...
Total amount required		

2. Investments of the company as on the date of application for refund :

(*i*) Government securities .. .. Rs.
(*ii*) Debentures of companies and local authority . Rs.
(*iii*) Shares of other companies .. .. .. Rs.
(*iv*) Loans, deposits and other non-trading advance .. Rs.
(*v*) Other properties or assets the income from which is not chargeable to income-tax as profits or gains of the business carried on by the company .. Rs.
(*vi*) Cash in hand and at bank . . .. Rs.

Rs.

Less : Investments or money claimed by the company to be necessary for the existing business or as being locked up outside India in a country the laws of which restrict or prohibit remittance of funds to India (details should be annexed) .. . .. Rs.

Balance, representing the amount of available resources not already utilised in approved purposes as on the date of application . . . .. Rs.

3. Excess of (1) over (2) (excess of total requirements for approved purposes over available resources to the extent of which refund is required) Rs.

(In cases where the profits and gains of a company include income which is not included in its total income, *e.g.* agricultural income, the amount in Item 3 should first be determined as if the whole profits and gains of the company were includible in the total income. Having done so, only that proportion of the amount so determined should be shown against Item 3 as the total income of the company for the previous year bears to its total profits and gains for that year, reduced by such allowances as may be admissible under the Act, which have not been taken into account by the company in its profits and loss account for that year.)

(*Place*) .. .. *Signature* ... .
(*Date*) .... For . . .. Ltd.

STATEMENT No. 2

Particulars of Securities	*Face Value* Rs.
. .. .	.. . . . .

(*Place*) . ... *Signature* . . ..
(*Date*) ... . For . . .. Ltd.

FORM 'D'

(*See rule* 15)

Application for determination of excess deposit under Rule 15 *of the Income-tax Allowances (Current Profits Deposit) Rules,* 1957

To

The Income-tax Officer,

We, ...Limited, having our Registered Office at . have deposited Rs. . . . . under sub-section (2B) of section 10 of the Indian Income-tax Act, 1922, for the year ended 31st March .. . .

2. The amount of the current profits deposit for the above-mentioned year based on the total income as reduced by the order of the . . . . is Rs. . . ..

3. We, therefore, pray that the excess amount deposited, namely, Rs. . . may be communicated to the Board of Referees for enabling them to authorise the refund of that amount.

4. We enclose herewith the Memorandum of Deposit issued on . . ..by the . . ..

(*Place*) .... *Signature* ... .
(*Date*) .... For .... Ltd.

D

THE INDIAN INCOME-TAX (COMPUTATION OF CAPITAL OF INDUSTRIAL UNDERTAKINGS) RULES, 1949

(*Notification No.* 98, *dated the* 15*th October*, 1949)

In exercise of the powers conferred by sub-section (1) of section 59 of the Indian Income-tax Act, 1922 (XI of 1922), the Central Board of Revenue is pleased to make the following rules for the computation of capital employed in an industrial undertaking for the purposes of section 15C of the said Act, the same having been previously published as required by sub-section (4) of section 59 of the said Act :—

Rules for the computation of capital employed in an undertaking for the purposes of section 15C of the Indian Income-tax Act, 1922

1. These rules may be called the Indian Income-tax (Computation of Capital of Industrial Undertakings) Rules, 1949.

2. In these rules,—

(*i*) "Act" means the Indian Income-tax Act, 1922 (XI of 1922) ;

(*ii*) "average cost" in relation to any asset means such proportion of the actual cost thereof as the number of days of the computation period during which such asset is used in the business bears to the total number of days comprised in the said period ;

(*iii*) "computation period" means the period for which the profits and gains of the undertaking are computed under section 10 of the Act ;

(*iv*) "depreciation" means the allowance admissible under clause (*vi*) and (*vi-a*) of sub-section (2) of section 10 of the Act ;

(*v*) "written-down value" means the written-down value computed under sub-section (5) of section 10 of the Act as if for the words "previous year" the words "computation period" were substituted.

3. (1) For the purpose of section 15C of the Act, the capital employed in an undertaking to which the said section applies shall be taken to be—

(*a*) in the case of assets acquired by purchase and entitled to depreciation—

(*i*) if they have been acquired before the computation period, their written-down value on the commencing date of the said period ;

(*ii*) if they have been acquired on or after the commencing date of the computation period, their average cost during the said period ;

(*b*) in the case of assets acquired by purchase and not entitled to depreciation—

(*i*) if they have been acquired before the computation period, their actual cost to the assessee ;

(*ii*) if they have been acquired on or after the commencing date of the computation period, their average cost during the said period ;

(*c*) in the case of assets being debts due to the person carrying on the business, the nominal amounts of those debts ;

(*d*) in the case of any other assets, the value of the assets when they became assets of the business provided that if any such asset has been acquired within the computation period, only the average of such value shall be taken in the same manner as average cost is to be computed. **Div. 3 D**

(2) Where the price of any asset has been satisfied otherwise than in cash, the then value of the consideration actually given for the asset shall be treated as the price at which the asset was acquired.

(3) Any borrowed money and debt due by the person carrying on the business shall be deducted and in particular there shall be deducted any debts incurred in respect of the business for income-tax and super-tax or business profits tax or for advance payments due under any provision of the Indian Income-tax Act, 1922, or for any sum payable in relation to business profits tax under section 13 of the Business Profits Tax Act, 1947 (XXI of 1947):

Provided that any such debt for income-tax or super-tax or business profits tax shall, for the purpose of this sub-rule, be deemed to have become due—

(*a*) in the case of income-tax and super-tax on the last day of the period of time within which the tax is payable under section 45 of the Act;

(*b*) in the case of business profits tax on the first day after the end of the chargeable accounting period in respect of which the tax is assessable notwithstanding that the business profits tax may not have been assessed until after that date;

(*c*) in the case of any advance payment due under any provision of the Act or of any provisional tax paid under section 23B of the Act, on the date on which, under the provision of section 45 of the Act, the payment first became due.

(4) Where any debt for business profits tax assessable in respect of any period is to be deducted under this rule, the amount thereof shall not be reduced as a result of any relief to be given in respect of a deficiency of profits accruing in any subsequent period, and the amount of such relief shall be treated as having become an asset of the business on the first day after the end of the chargeable accounting period in which the deficiency occurred.

(5) Any investments the income from which is not to be taken into account in computing the profits of the business and any moneys not required for the purposes of the business, shall be left out of account, but where any investments in the beneficial ownership of the person carrying on the business are so left out of account, the sum (if any) to be deducted under sub-rule (3) in respect of borrowed money shall be computed as if the principal of the borrowed money were reduced by the value of those investments.

(6) For the purpose of ascertaining the average amount of capital employed in a business during any computation period, the profits or losses made in that period shall, except so far as the contrary is shown, be deemed—

(*a*) to have accrued at an even rate throughout the said period; and

(*b*) to have resulted, as they accrued, in a corresponding increase or decrease, as the case may be, in the capital employed in the business.

4. In case of any doubt in the interpretation or application of these rules and in particular where there is any difficulty in computing the capital employed in respect of only a part of an undertaking the decision of the Central Board of Revenue shall be final.

E

THE INDIAN INCOME-TAX (BOARD OF REFEREES) RULES, 1956

(*Notification No. S.R.O.* 1362, *dated the 7th June*, 1956)

In exercise of the powers conferred by sub-section (1) of section 59 of the Indian Income-tax Act, 1922 (XI of 1922), the Central Board of Revenue is pleased to make the following rules concerning applications for reference to the Board of Referees under sub-section (4) of section 23A of the said Act and the procedure to be followed by such Board in disposing of the applications, the same having been previously published as required by sub-section (4) of section 59 of the said Act :—

1. These Rules may be called the "Indian Income-tax (Board of Referees) Rules, 1956".

2. *Definitions.*—In these Rules unless the context otherwise requires,—

(*a*) "Act" means the Indian Income-tax Act, 1922 (XI of 1922);

(*b*) "applicant" means the company which applies to the Commissioner of Income-tax under sub-section (4) of section 23A of the Act requiring him to refer its case to the Board of Referees;

(*c*) "application" means the application made by the company to the Commissioner of Income-tax under sub-section (4) of section 23A of the Act requiring him to refer its case to the Board of Referees;

(*d*) "Board of Referees" means the Board of Referees appointed by the Central Government in pursuance of sub-section (4) of section 23A of the Act;

(*e*) "Chairman of the Board" means that member of the Board of Referees who is designated by the Central Government as the Chairman of the Board.

3. The application shall be made in Form "A" annexed to these Rules and shall be sent (together with 3 extra copies thereof and of all enclosures thereto) to the Commissioner.

4. If the application is not made within the time specified in sub-section (4) of section 23A of the Act, the Commissioner of Income-tax (hereafter in these Rules referred to as the Commissioner) shall not refer the matter to which the application relates to the Board of Referees.

5. If the application is made within the aforesaid time, the Commissioner shall—

(*i*) within thirty days of the receipt of the application by him, report to the Central Government the fact of such application having been made, and

(*ii*) within sixty days of the receipt of the application by him, draw up a statement of the case in respect of the matter to which the application relates and send it (together with two extra copies thereof) to the Board of Referees for decision.

6. (1) The statement of the case drawn up by the Commissioner shall set out the relevant facts, his decision under sub-section (3) of section 23A of the Act, and his own opinion on any point or points urged by the applicant in the application including his opinion on the point whether the applicant is a company engaged in activities of the type or types specified in sub-section (4) of section 23A. **Div. 3 E**

(2) A copy of his decision under sub-section (3) of section 23A and any other document or documents which the Commissioner considers relevant shall be appended to the statement of the case.

(3) One copy of the statement of the case shall be sent by the Commissioner to the applicant as soon as practicable.

7. The Board of Referees shall notify to the applicant and the Commissioner at least thirty days before the date of hearing, the date, time and place fixed for the hearing of the application.

8. Any application to the Board of Referees for adjournment of the hearing shall be made so as to reach the Board at least fifteen days before the date of hearing, but the Board of Referees may refuse to grant such an adjournment if they are satisfied that there are no sufficient grounds for adjournment and in such a case after communicating such refusal to the applicant, the Board may decide the reference *ex parte* on its merits.

9. (1) Any person or persons who are eligible to represent the applicant in any income-tax proceedings by virtue of section 61 of the Act may, if specifically authorised for the purpose by the applicant, represent the applicant before the Board of Referees.

(2) Any officer of the Central Government or any lawyer may, if specifically authorised for the purpose by the Commissioner, represent the Commissioner before the Board of Referees.

10. If the Board of Referees requires any information or documents which are not contained in the statement of the case for deciding a reference, it may obtain such information or documents from the applicant or from the Commissioner as the case may be.

11. The Board of Referees shall communicate its decision to the applicant and the Commissioner as soon as it is ready.

12. If the members of the Board of Referees disagree in their decision, the decision of the Chairman of the Board shall prevail and be deemed to be the decision of the Board of Referees.

13. If by reason of any vacancy occurring in the Board of Referees on account of transfer, leave or otherwise, the Central Government appoints any other person to fill up the vacancy, the proceedings of the Board of Referees as previously constituted shall not be invalid but the applicant shall be entitled to a re-hearing of its case by the Board of Referees as reconstituted, if it so demands.

14. All communications intended for the Central Government or the Board of Referees shall be addressed to the Deputy Secretary to the Government of India, Ministry of Finance (Revenue Division), North Block, New Delhi-2.

Div. 3
E

ANNEXURE

FORM "A"

Form of Application to the Board of Referees under section 23A(4)

This..... .....day of..... .19.....

In the matter of the application of section 23A to..... .....(name of the applicant company).

The applicant states as follows :—

(1) that the address to which notices or any other communication may be sent to the applicant is.. . .....

(2) that under sub-section (3) of section 23A of the Indian Income-tax Act, 1922, the applicant has been required by the Commissioner of Income-tax to distribute before .. .. (date) an amount of Rs..... as dividends to its shareholders in respect of the previous year ended. ....

(3) that notice of the order of the Commissioner under sub-section (3) of section 23A was served on the applicant on.. ....(date).

(4) that the applicant is an Indian company engaged in the manufacture of..... ... in the processing of.. ... . in the mining of..... in the generation or distribution of electricity/other than electricity (any other form of power should be specified here).

(5) that the facts which are admitted and/or found by the Commissioner and which are necessary for drawing up the reference are stated in the enclosure to this application.

(6) that in arriving at his decision under sub-section (3) of section 23A the Commissioner has erred in ignoring or failing to give adequate consideration to the following relevant points :—

1. ....
2. . ...
3. . .. .

(7) that having regard to the current requirements of the applicant's business (fully described in the enclosure to the application), or/and other requirements necessary or advisable for the maintenance and development of the applicant's business

(*i*) the distribution to the shareholders in respect of the previous year of any dividend/ any dividend exceeding .. .. would be unreasonable,

(*ii*) the time allowed by the Commissioner for distribution under sub-section (3) of section 23A is unreasonably short and should be extended till . .. .

(8) that the applicant, therefore, requires under sub-section (4) of section 23A of the aforesaid Act that a statement of the case be drawn up and referred to the Board of Referees.

(9) that the documents or copies thereof as specified below on which the applicant relies in support of his case be forwarded to the Board of Referees for their consideration. One set of the said documents is enclosed for the purpose, with translation in English of the documents, where necessary.

(*i*) .. ..

F

THE INCOME-TAX (SEARCH OF PREMISES AND SEIZURE OF DOCUMENTS) RULES, 1957

(*Notification No. S.R.O.* 1953, *dated the 6th June*, 1957)

In exercise of the powers conferred by sub-section (1) of section 59 of the Indian Income-tax Act, 1922 (XI of 1922), the Central Board of Revenue hereby makes the following rules for the purposes of sub-section (2) of section 37 of the said Act, the same having been previously published as required by sub-section (4) of section 59 of the said Act namely:—

1. These rules may be called the Income-tax (Search of Premises and Seizure of Documents) Rules, 1957.

2. The Commissioner of Income-tax may, for reasons recorded, issue a written order under his own signature and bearing his seal, specially authorising any Income-tax Officer, subordinate to him to enter any building, or place to be specified therein where he has reason to believe that books of accounts or other documents which, in his opinion, will be relevant to or useful for any proceedings under the Income-tax Act, 1922, may be found. Such order may authorise the Income-tax Officer to do all or any of the following acts, namely :

(*a*) to enter the said building, or place with such assistance of police officers as may be required ;

(*b*) to search the same and to place identification marks on such books of account or other documents found therein as, in his opinion, will be relevant to or useful for any proceedings under the Act and to make a list of such books or documents with particulars of the identification marks thereon ;

(*c*) to examine such books or documents and to make copies of or extracts from such books or documents ;

(*d*) to take possession of or seize any such books or documents ;

(*e*) to make a note or an inventory of any other article or thing found in the course of such search which, in his opinion will be useful for or relevant to any proceedings under the Act ;

(*f*) to convey such books or documents to the office of the Income-tax Officer or any other authority not below the rank of Income-tax Officer employed in the execution of the Act.

3. Whenever any building or place authorised to be searched is closed, any person residing in or being in charge of such building or place shall, on demand by the Income-tax 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 the Income-tax Officer executing the authority, with such assistance of a police officer 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

Div. 3 F 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, the Income-tax 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.

5. Where any person in or about such building or place is reasonably suspected of concealing about his person any article for which search is being made, such person may also be searched by the Income-tax Officer with such assistance as he may consider necessary. If such person is a woman, the search shall be made by any other woman with strict regard to decency.

6. Before making a search, the Income-tax Officer, about to make it shall call upon two or more respectable inhabitants of the locality in which the building or place to be searched is situate 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 the Income-tax 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 the Act unless specially summoned.

8. The occupant of the building or place searched or some person in his behalf shall be permitted to attend during the search and a copy of the list prepared under rule 7 shall be delivered to such occupant or person. A copy shall also be forwarded to the Commissioner.

9. When any person is searched under rule 5, a list of all things taken possession of shall be prepared and copy thereof shall be delivered to such person. A copy shall also be forwarded to the Commissioner.

The order of the Commissioner referred to in rule 2 shall be in the following form :

Warrant of Authorization under section 37(2) of the Indian Income-tax Act, 1922 (XI of 1922), and rule 2 of the Income-tax (Search of Premises and Seizure of Documents) Rules, 1957.

To

(The Income-tax Officer)

Whereas information has been laid before me and on the consideration thereof I have been led to believe that certain books of account and/or documents which are or may be relevant to or useful for proceedings under the above Act in the case (*name of the assessee with G.I.R. No.*) have been kept and are to be found at (*specify particulars of the building or place*),

This is to authorise and require you

(Name of the Income-tax Officer)

(*a*) to enter and search with such assistance of police officers as may be required, the said premises ;

(*b*) to place identification marks on such books and documents as may be found in the course of the search and as you may consider relevant to or useful for the proceedings aforesaid and to make a list thereof together with particulars of the identification marks ;

(*c*) to examine such books and/or documents and make copies or extracts from such books and documents ;

(*d*) to seize such books of account and/or documents, and take possession thereof ;

(*e*) to convey such books or documents to the office of the Income-tax Officer or any other authority not below the rank of an Income-tax Officer employed in the execution of the Act ; and

(*f*) to exercise all other powers and duties under the said section and the rules relating thereto.

Seal

Commissioner of Income-tax

G

RULES AND NOTIFICATIONS UNDER SECTION 46A

THE INCOME-TAX (TAX CLEARANCE CERTIFICATES) RULES, 1953

(*Notification No. S.R.O.* 962, *dated the* 25*th May*, 1953)

In exercise of the powers conferred by sub-section (4) of section 46A of the Indian Income-tax Act, 1922 (XI of 1922), the Central Government hereby makes the following rules :—

1. **Short title.**—These Rules may be called the Income-tax (Tax Clearance Certificates) Rules, 1953.

2. **Definitions.**—In these Rules—

(*a*) "the Act" means the Indian Income-tax Act, 1922 (XI of 1922);

(*b*) "competent authority" means an authority appointed as such under section 46A of the Act;

(*c*) "form" means a form annexed to these Rules.

3. **Application for tax clearance certificate.**—(1) An application for a tax clearance certificate or an exemption certificate may be made in form "B" to any competent authority.

(2) Where the applicant is a person domiciled in India or is a person who has been assessed by an Income-tax Officer anywhere in India, the application shall be accompanied by an authorisation in form "A" to be obtained by the applicant from the Income-tax Officer within whose jurisdiction he ordinarily resides or is assessed to income-tax.

4. **Form of certificate.**—(1) A tax clearance certificate issued under sub-section (1) of section 46A of the Act shall be in form "C" and shall be valid for the period mentioned therein.

(2) An exemption certificate issued under the proviso to sub-section (1) of section 46A of the Act shall be in form "E" and shall be valid for the period mentioned therein.

5. **Production of certificates.**—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.

ANNEXURE TO THE RULES

FORM "A"

Folio No.

GOVERNMENT OF INDIA

To

The Income-tax Officer,
Foreign Section. . . . . .

1. Full name (in block letters) ....
2. Name of father (or husband)..... .....

3. *Passport No./Emergency Certificate No.

*(*i*) The above mentioned applicant has been assessed/is assessable by me up to ... ... He/She* has

*(*a*) no liabilities outstanding,

*(*b*) made satisfactory arrangements for the payment of taxes due/which may become due in respect of the assessments up to date/up to . under the Indian Income tax Act, 1922 (XI of 1922), the E. P. T. Act, 1940 (XV of 1940), or the B. P. T. Act, 1947 (XXI of 1947).

He/She* may accordingly be issued a Clearance Certificate in Form C.

*(*ii*) The above mentioned applicant is assessable in my jurisdiction. He/She* intends travelling abroad leaving India by air/sea/land* from As he/she* intends to return to India, he/she* may be given an Exemption Certificate in Form E.

Valid for presentation to Income-tax Officer (Foreign Section) within one month from date of issue.

Place. . . . . .

Date .

Income-tax Officer,

Designation.

Seal

* Strike out the words and/or para which are not applicable.

FORM "B"

FORM OF APPLICATION FOR A CERTIFICATE UNDER SECTION 46A(1) OF THE INDIAN INCOME-TAX ACT, 1922

To

The Income-tax Officer,

Foreign Section . . . .

Sir,

I request that *a Tax Clearance Certificate/an Exemption Certificate be granted to me.

I give below the necessary particulars :—

1. Full name of applicant (in block letters) .
2. Name of father (or husband) . . .
3. Domicile and nationality . . . . . .
4. Nature of business, profession or vocation, etc. in India .
5. Name of Income-tax Circle in which assessed and the G.I.R. No. (if known)
6. Whether exemption is claimed under any section of the Act : if so, which . . . .
7. Place(s) at which the business, profession or vocation is/was carried on .
8. Date of arrival in India (when were the previous visits made and what were the periods of stay in each case) . .
9. Destination of the journey . . .
10. Designation of the I.T.O., if any, who made the last assessment on the applicant. . . . . .
11. Probable date of departure . . . . . .
12. Mode of travel (by *air/sea/land) . . . .
13. Date of intended return, if any . . . . . .

I declare that to the best of my knowledge and belief, the information furnished in the application is correct, complete and is truly stated.

Yours faithfully,

Place . . . (*Applicant*)

Date... . ...

* Delete whichever is inappropriate.

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FORM "C"

Folio No.

GOVERNMENT OF INDIA

CLEARANCE CERTIFICATE UNDER SECTION 46A(1) OF THE INDIAN INCOME-TAX ACT, 1922 (XI of 1922)

1. Full name (in block letters) .. ..

2. Name of father (or husband). ... .

3. Passport No./Emergency Certificate No.. . .. .

This is to certify that *the above mentioned applicant* has

*(*a*) no liabilities outstanding,

*(*b*) made satisfactory arrangements for the payment of taxes which are or may become payable under the Indian Income-tax Act, 1922 (XI of 1922), the E.P.T. Act, 1940 (XV of 1940), the Business Profits Tax Act, 1947 (XXI of 1947).

This certificate is valid for 3/12 months from the date of issue.

Place . .. .

Date.. ... .

Income-tax Officer,
Foreign Section.

Seal

* Strike out the para which is not applicable.

FORM "E"

Certificate No.

GOVERNMENT OF INDIA

EXEMPTION CERTIFICATE UNDER PROVISO TO SECTION 46A(1) OF THE INDIAN INCOME-TAX ACT, 1922 (XI of 1922)

1. Full name (in block letters). .. ..

2. Name of father (or husband). ....

3. Passport No./Emergency Certificate No. . . . .

This is to certify that *the above mentioned applicant* who intends to travel abroad is exempted from producing a Clearance Certificate under section 46A(1) of the Indian Income-tax Act, 1922 (XI of 1922), in respect of the journey/journeys to be undertaken within 3/12 months from date.

Place..... ... .

Date..... . ...

Income-tax Officer,
Foreign Section.

Seal

PERSONS EXEMPT FROM PROVISIONS OF SEC. 46A

(*Notification No. S.R.O.* 961, *dated the* 25*th May*, 1953)

In exercise of the powers conferred by sub-section (1) of section 46A of the Indian Income-tax Act, 1922 (XI of 1922), the Central Government hereby directs that the provisions of the said section shall not apply to the following persons, namely :—

1. all persons below the age of eighteen years ;

2. passengers in transit holding transit visa or *bona fide* overseas tourists holding tourist visa or persons holding courtesy visa (gratis visa) or persons travelling from Commonwealth countries, provided that the total period spent in India does not exceed ninety days ;

3. (*a*) all persons who are for the time being holding any civil post under the Union or a State or a local authority, and all persons who are for the time being holding posts connected with defence ;

   (*b*) all persons whose salaries or emoluments are fixed by law or are specified in the Second Schedule to the Constitution or are determined under Article 186 or 221 read with Article 238 (8) and 238 (13) respectively ;

   (*c*) the wives of the persons referred to in clauses (*a*) and (*b*) ;

   (*d*) British Officers and other Ranks proceeding *ex*-India on termination of their contract of service with the Government of India and the wives of such Officers ;

4. (*a*) all Diplomatic Envoys of Foreign and Commonwealth countries accredited to India and their wives ;

   (*b*) Foreign Consular Officers *de carriere* posted in India and their wives ;

   (*c*) Trade Commissioners and Trade Agents *de carriere* of Foreign and Commonwealth countries posted in India and their wives ;

   (*d*) members of the staff of the establishment of any of the officers mentioned in clauses (*a*), (*b*) and (*c*) above, provided they are nationals of the country represented by that officer, and are whole-time employees of the Government of that country and are not engaged in a private occupation for gain in India and their wives ; and

   (*e*) officials of the United Nations and Specialised Agencies of the United Nations to whom the United Nations (Privileges and Immunities) Act, 1947 (LXVI of 1947), is applicable and their wives ;

5. (*a*) officials and representatives of Foreign and Commonwealth Governments visiting India on the business of their Governments and their wives ;

   (*b*) officials of Foreign and Commonwealth Governments functioning in India who are exempt from payment of income-tax under an agreement entered into between the said Government and the Government of India and the wives of such officials ;

6. (*a*) all persons permitted by the Protector of Emigrants to depart out of India to Ceylon, Burma or Malaya for unskilled work ;

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(*b*) all persons permitted by the Protector of Emigrants under section 17 of the Indian Emigration Act, 1922 (VII of 1922), to be recruited for being engaged on skilled work in an overseas country except those in respect of whom the Protector of Emigrants declares that a Tax Clearance or an Exemption Certificate is necessary ;

7. (*a*) all Seamen holding Indian Continuous Discharge Certificates proceeding from India under an agreement of service with a shipowner or an Agent or Master of a ship, provided that the employers agree to be responsible for the payment of tax due from the Seamen in respect of their wages ;

(*b*) all Seamen holding Foreign Continuous Discharge Certificates proceeding from India under an agreement of service with a shipowner or an Agent or Master of a ship, provided that their preceding stay in India was of a duration not exceeding 90 days ;

8. (*a*) all persons proceeding on pilgrimage by sea to the Hejaz, provided that they travel in deck class on pilgrim ships with return tickets, hold pilgrim passes, and are not in possession of international passports ;

(*b*) all persons proceeding on pilgrimage by sea to IRAN AND IRAQ, provided that they travel in deck class with return tickets, hold pilgrim passes, and are not in possession of international passports :

Provided that subject to such general or special directions as the Central Government may issue, a competent authority may, at his discretion, require any of the aforesaid persons to obtain from him a tax clearance or an exemption certificate.

COMPETENT AUTHORITY FOR PURPOSES OF SEC. 46A

(*Notification No. S.R.O.* 963, *dated the* 25*th May*, 1953)

In pursuance of the provisions of section 46A of the Indian Income-tax Act, 1922 (XI of 1922), the Central Government hereby appoints every Income-tax Officer (Foreign Section) subordinate to any of the Commissioners of Income-tax specified in the Schedule hereto annexed as a competent authority for the purposes of the said section.

SCHEDULE

1. The Commissioner of Income-tax, Bombay City.
2. The Commissioner of Income-tax, West Bengal, Calcutta.
3. The Commissioner of Income-tax, Delhi.
4. The Commissioner of Income-tax, Madras.
5. The Commissioner of Income-tax, Hyderabad.
6. The Commissioner of Income-tax, Bombay North, Baroda.
7. The Commissioner of Income-tax, Travancore-Cochin, Bangalore
8. The Commissioner of Income-tax, Bihar and Orissa, Patna.

H

MISCELLANEOUS NOTIFICATIONS

NOTIFICATIONS RELATING TO COMPANIES [Sec. 2(5A)]

I

(*No.* 49, *dated the* 25*th September*, 1948)

In exercise of the powers conferred by sub-section *(6) of section 2 of the Indian Income-tax Act, 1922, the Central Board of Revenue is hereby pleased to declare every non-Indian association to be a company both for purposes of assessment for the year ending 31st March, 1949, as well as for purposes of deduction of super-tax during the year ending 31st March, 1949, under the provisions of section 18 of the said Act, provided the Income-tax Officer is satisfied that it fulfils the following conditions, namely :—

(1) that it is an association incorporated under the laws of any country ;

(2) that it is assessable, or was in fact assessed, as a company for the assessment year ending on 31st March, 1948 ; and

(3) EITHER that it is an association in which the public are substantially interested, that is to say :—

its shares (not being shares entitled to a fixed rate of dividends), carrying not less than 51 per cent of the voting power, have been allotted unconditionally to, or acquired unconditionally by, the public *and* have been the subject matter of dealings in any Stock Exchange during the year ending 31st March, 1948, and are in fact freely transferable by the holders to other members of the public ; OR

that it is an association of which the entire share capital is held directly or through nominees by an association in which the public are substantially interested as above.

II

(*No. S.R.O.* 314, *dated the* 3*rd March*, 1951)

In exercise of the powers conferred by clause *(6) of section 2 of the Indian Income-tax Act, 1922 (XI of 1922), the Central Board of Revenue hereby declares that a company formed and registered under a law in force in any of the Part B States the registered office of which is situated in the taxable territories and which has filed a return of income under sub-section (1) or sub-section (2) of section 22 of the said Act within the period allowed by the notice or within such period as may have been specifically extended, shall be a company for the purposes of the said Act.

* Now renumbered "(5A)" by the Indian Income-tax (Amendment) Act, 1953 (25 of 1953).

NOTIFICATION RELATING TO FIRMS [Sec. 23B(3)]

(No. 83, dated the 3rd September, 1949)

Under sub-section (3) of section 23B of the Indian Income-tax Act, 1922 (XI of 1922), as amended by Ordinance IX of 1949, the Central Government is pleased to notify that, if a firm is not to be assessed as an unregistered firm under that sub-section, it should fulfil the conditions specified against it :—

(*a*) In case the firm has been treated as a registered firm for the purpose of its last completed regular assessment.	The firm should have made an application for registration in accordance with the Indian Income-tax Rules, 1922, in respect of the year for which the provisional assessment is to be made, before such assessment is made.
(*b*) In case no regular assessment has been made on the firm for any year preceding the year for which the provisional assessment is to be made.	The firm should have made an application for registration in accordance with the Indian Income-tax Rules, 1922, on or before the date on which it has made a return of its income.

LIST OF INSTITUTIONS APPROVED FOR SEC. 10(2)(*xiii*)

(Finance Department (Revenue Division) Notification No. 34, dated the 23rd November, 1946)

A list of associations, universities, colleges and institutions approved by the prescribed authority for the purpose of clause (*xiii*) of sub-section (2) of section 10 of the Indian Income-tax Act, 1922 (XI of 1922), has been published for general information.

Agricultural Research Associations

1. All India Bee Keepers' Association, Ramgarh, District Nainital, U.P.
2. Botanical Survey of India, Calcutta.
3. Bombay Natural History Society, Bombay.
4. Central Board of Irrigation, Simla.
5. Current Science Association, Bangalore.
6. Entomological Society of India, Cawnpore.
7. Geological Survey of India, Dehra Dun.
8. Imperial Chemical Industries, Calcutta.
9. Indian Council of Agricultural Research, New Delhi. (*Substituted, Notif. S.R.O.* 1791, 27-10-1952.)
10. Indian Academy of Science, Bangalore.
11. *Deleted.* (*Notif.* 56-*I.T.*, 4-6-1949.)
12. Indian Central Cotton Committee, Bombay.
13. Indian Central Coconut Committee, Ernakulam.
14. Indian Central Jute Committee, Calcutta.
15. Indian Central Oilseeds Committee.
16. Indian Central Sugarcane Committee, New Delhi.
17. Indian Central Tobacco Committee, Bombay.
18. Indian Coffee Board, Bangalore.
19. Indian Chemical Society, Calcutta.
19A. Indian Jute Mills Association, Research Institute, Calcutta. (*Notif.* 18-*I.T.*, 30-8-1947.)
20. Indian Lac Cess Committee, Ranchi.
21. Indian Rubber Production Board, Kottayam, Travancore State.
22. Indian Science News Association, Calcutta.
23. Indian Society of Genetics and Plant Breeding, New Delhi.
24. Indian Society of Soil Science, Calcutta.
25. Indian Tea Association, Calcutta.
26. Indian Tea Market Expansion Board, Calcutta.
27. Meteorological Department, Poona.
28. National Academy of Science, Allahabad.
29. *Deleted.* (*Notif.* 56-*I.T.*, 4-6-1949.)
30. Royal Asiatic Society, Calcutta and Bombay.
31. United Planters' Association of South India, Coonoor.
32. Vivekanand Laboratories, Almora.
33. Zoological Survey of India, Calcutta.
34. The International Society of Sugarcane Technologists. (*Notif. S.R.O.* 3496, 7-11-1955.)
35. The Sugarcane Research Station, Jullundur. (*Notif. S.R.O.* 478, 11-2-1957).

Scientific and Industrial Research Associations

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1. Ahmedabad Textile Industry's Research Association, Ahmedabad. (*Substituted, Notif.* 21-*I.T.*, 10-4-1948.)
1A. B. B. & C. I. Railway Workshop, Ajmer. (*Notif.* 21-*I.T.*, 10-4-1948.)
2. Bengal Potteries Ltd., Calcutta.
3. Bhowmik (Mr. B. B.), Radan House, 89, Kalighat Road, Calcutta.
4. Biochemical Standardisation Laboratory, Calcutta.
5. Botanical Survey of India, Calcutta.
6. Council of Scientific and Industrial Research, New Delhi.
6A. Indian Association for the Cultivation of Science, Calcutta. (*Notif.* 7-*I.T.*, 22-1-1949.)
7. Indian Central Cotton Committee, Matunga, Bombay.
8. Indian Crucible Co., Ltd., 16, Sibogopal Banerjee Lane, Salkia, Howrah.
9. Indian Meteorological Dept., Delhi.
10. Mysore Iron and Steel Works, Bhadravati.
11. State Broadcasting Dept., Madras.
12. Royal Botanical Gardens, Calcutta.
12A. Silk and Art Silk Mills Research Association, Bombay. (*Notif.* 23, 18-2-1950.)
12B. South India Textile Research Association, Combatore. (*Notif. S.R.O.* 1799, 9-11-1951.)
12C. Shri Ram Institute for Industrial Research, Delhi. (*Notif.* 79, 10-12-1953.)
12D. Industrial Foundation, Bombay. (*Notif.* 14, 11-3-1954.)
13. Tata Iron and Steel Industry, Jamshedpur.
14. Bombay Textile Research Association, Bombay. (*Notif. S.R.O.* 3466, 17-11-1954.)
15. The Textile and Allied Industries Research Organisation, Baroda. (*Notif. S.R.O.* 1026, 1-5-1956.)
16. National Council of Applied Economic Research. (*Notif. S.R.O.* 1859, 17-8-1956; *Substituted, Notif. S.R.O.* 2742, 19-11-1956.)

Associations connected with Research work in Medicine

1. Enquiries conducted under the auspices of the I.R.F.A., New Delhi.
1A. Gujarat Research Society, Bombay. (*Notif.* 2-*I.T.*, 8-1-1949.)
2. Indian Council of Medical Research, New Delhi. (*Substituted, Notif.* 65, 3-6-1950.)
2A. King Edward VII Memorial Hospital and Seth Gordhandas Sunderdas Medical College Research Society, Bombay. (*Notif.* 16, 3-3-1953.)
3. Medical Council of India, New Delhi.
4. Nutrition Research Laboratories, Coonoor.
5. Parlakimedi Trust Fund, New Delhi.
6. Tuberculosis Association of India, New Delhi.
7. The Universal Health Institute, Bombay.(*Notif. S.R.O.*2684, 13-8-1954.)

Universities

1. Agra University, Agra.
2. Allahabad University, Allahabad.
3. Andhra University, Guntur.
4. Annamalai University, Annamalainagar.
5. Bombay University (Chemical Technological Department), Bombay.
6. Calcutta University (University College of Science), Calcutta.
7. *Deleted.* (*Notif.* 56-*I.T.*, 4-6-1949.)
8. Delhi University, Delhi.
9. Hindu University, Benares.
10. Lucknow University, Lucknow.
11. Madras University, Madras.
12. Muslim University, Aligarh.
13. Mysore University, Bangalore.
14. Nagpur University, Nagpur.
15. Patna University, Patna.
16. East Punjab University, Solon. (*Substituted, Notif.* 56-*I.T.*, 4-6-1949.)
17. Travancore University, Trivandrum.
18. Usmania University, Hyderabad (Deccan.)
19. Utkal University, Cuttack.
20. Women's University, Bombay.

Colleges

1. Agricultural College, Cawnpore.
2. *Deleted.* (*Notif.* 56-*I.T.*, 4-6-1949.)
3. Agricultural College, Nagpur.
4. Agricultural College, Poona.
5. Agricultural College, Sabour, Bihar.
6. Agricultural College, Saidapet.
7. *Deleted.* (*Notif.* 56-*I.T.*, 4-6-1949.)
8. Amar Singh K.E.M.U. Jat College, Lakhaoti, U.P.
9. Balwant Agricultural College, Agra.
10. *Deleted.*
11. *Deleted.* } (*Notif.* 56-*I.T.*, 4-6-1949.)
12. Indian School of Mines, Dhanbad.
13. *Deleted.* (*Notif.* 56-*I.T.*, 4-6-1949.)
14. Khalsa College, Amritsar.
15. King George's Medical College, Lucknow.
16. Presidency College, Calcutta.
17. Presidency College, Madras.
18. Recognised Medical Colleges.

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Colleges—*Contd.*

19. Science College, Patna.
20. School of Tropical Medicine, Calcutta. (*Corrected, Notif.* 81, 16-12-1953.)
21. Veterinary College, Bengal.
22. *Deleted.* (*Notif.* 56-*I.T.*, 4-6-1949.)
23. Veterinary College, Madras.
24. Veterinary College, Patna.
25. Veterinary College, Poona.
26. The Birla College of Engineering, Pilani. (*Notif. S.R.O.* 1039, 30-3-1957.)
27. The Birla College of Science, Commerce and Pharmacy, Pilani. (*Notif. S.R.O.* 1040, 30-3-1957.)

Institutions

1. Agricultural Research Institute and College, Coimbatore.
2. Allahabad Agricultural Institute, Allahabad.
3. *Deleted.* (*Notif.* 56-*I.T.*, 4-6-1949.)
4. Bengal Tanning Institute, Calcutta.
5. Bose Research Institute, Calcutta.
6. Central Irrigation Research Institute, Poona.
7. Central Research Institute, Trivandrum.
8. Forest Research Institute and College, Dehra Dun.
9. Government Silk Institute, Nathnagar, Bhagalpore.
10. Indian Agricultural Research Institute, New Delhi. (*Substituted, Notif.* 5-*I.T.*, 22-2-1947.)
11. Indian Dairy Research Institute, Bangalore. (*Substituted, ibid.*)
12. Indian Veterinary Research Institute, Izatnagar and Mukteswar (Uttar Pradesh). (*Substituted, ibid.*)
13. Imperial Institute of Sugar Technology, Cawnpore.
14. *Deleted.* (*Notif.* 56-*I.T.*, 4-6-1949.)
15. Indian Institute of Science, Bangalore.
16. Indian Statistical Institute, Calcutta.
17. Institute of Agriculture, Anand.
18. Institute of Plant and Industry, Indore.
19. *Deleted.* (*Notif.* 56-*I.T.*, 4-6-1949.)
20. Laxmi-Narain Institute of Technology, Nagpur.
21. National Institute of Science in India, Calcutta.
22. Nutritional Research Institute, Coonoor.
23. River Research Institute, Bengal, Calcutta.
24. Royal Institute of Science, Bombay.
25. Silk Research Institute, Berhampore.
26. Tata Institute of Fundamental Research, Bombay.
27. Technological Institute, Baroda.
28. Victoria Jubilee Technical Institute, Bombay.
29. Vishvabharti Institute, Calcutta.
30. Inter-Departmental Committee for the collection of voluntary contributions for the plywood industry. (*Notif. S.R.O.* 3580, 28-11-1955.)
31. Indian Science Congress Association, Calcutta. (*Notif. S.R.O.* 226, 24-1-1956.)

NOTIFICATION UNDER SEC. 10(2B)

(*Notification No. S.R.O.* 1270, *dated the* 16*th April*, 1957)

In exercise of the powers conferred by sub-section (2B) of section 10 of the Indian Income-tax Act, 1922 (11 of 1922), the Central Government hereby notifies that for the assessment of any company for the year commencing on the first day of April, 1957, the percentage for computing the deposits to be made with reference to the amount by which the sum of the amounts mentioned in clauses (*a*) and (*b*) of that sub-section exceeds the sum of rupees one lakh shall be :—

(1) nil in the following cases—

(*a*) a company in which not less than forty per cent of the 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 ;

(*b*) a company incorporated under any special Act of Parliament ;

(*c*) a banking company as defined in the Banking Companies Act, 1949 (10 of 1949) ;

(*d*) a company, being an insurer as defined in the Insurance Act, 1938 (4 of 1938) ;

(*e*) a company engaged in the generation or supply of electricity ;

(*f*) a company formed and registered under the Companies Act, 1956, established with the object of financing, whether by way of making loans or advances to, or subscribing to the capital of, private industrial enterprises in India, in whose case the Central Government has made or agreed to make a special advance for the purpose or has guaranteed or agreed to guarantee the payment of moneys borrowed by it from any institution outside India ;

(*g*) a company engaged solely in the financing of hire-purchase transactions ;

(*h*) a company carrying on "air transport service" as defined in the Air Corporations Act, 1953 (27 of 1953) ;

(*i*) a company engaged in the business of transport by ships ; and

(2) fifty per cent in the case of any other company.

NOTIFICATION UNDER SEC. 17(1)

(*C.B.R. Notification No.* 40, *dated the* 10*th May*, 1951, *as amended by C.B.R. Notification No.* 121, *dated the* 16*th November*, 1951)

In pursuance of the proviso to sub-section (1) of section 17 of the Indian Income-tax Act, 1922 (XI of 1922), the Central Board of Revenue hereby specifies the 31st day of December, 1951, as the date before which the person referred to in that sub-section may, if the first occasion on which he is assessable falls during the year ending on the 31st day of March, 1952, give the necessary notice in writing to the Income-tax Officer for the purposes of the said proviso.

I

MISCELLANEOUS ORDERS

THE INDIAN INDEPENDENCE (INCOME-TAX PROCEEDINGS) ORDER, 1947*

In exercise of the powers conferred by section 9 of the Indian Independence Act, 1947, and of all other powers enabling him in that behalf, the Governor-General is pleased to make the following order :—

1. (1) This Order may be cited as the Indian Independence (Income-tax Proceedings) Order, 1947.

(2) It shall come into force at once.

2. (1) In this Order,—

"appointed day" means the 15th day of August, 1947 ;

"assessee" means a person by whom income-tax or excess profits tax is payable ;

"relevant Tax Act" means the Indian Income-tax Act, 1922, as subsequently amended, or as the case may be, the Excess Profits Tax Act, 1940, as subsequently amended ;

"tax authority" means any of the following authorities, namely, the Income-tax Authorities mentioned in section 5 of the Indian Income-tax Act, 1922, the Appellate Tribunal mentioned in section 5A thereof, and the Excess Profits Tax Authorities mentioned in section 3 of the Excess Profits Tax Act, 1940 ;

"tax officer" means an Income-tax Officer or an Excess Profits Tax Officer within the meaning of the relevant Tax Act.

(2) The Interpretation Act, 1889, shall apply for the interpretation of this Order as it applies for the interpretation of an Act of Parliament.

3. Where before the appointed day the jurisdiction of a tax officer under the relevant Tax Act has been altered in connection with the setting up of the Dominions of India and Pakistan, or where after the appointed day the case of an assessee is transferred from one Dominion to the other by agreement between the Central Boards of Revenue of the two Dominions, and by reason of such alteration of jurisdiction or transfer the case of an assessee falls to be dealt with on or after the appointed day by the tax authorities of India, or as the case may be of Pakistan, all proceedings relating to the case pending before any tax authority of Pakistan, or as the case may be of India, shall be transferred to the corresponding tax authority of India, or as the case may be of Pakistan, and shall be disposed of by the last mentioned tax authority in accordance with law.

4. Any such transfer shall not render necessary the re-issue of any notice already issued by a tax authority, whether before or after the appointed day, or the commencement *de novo* of any proceeding in the case, and all subsequent

* Notification No. G.G.O. 12, published in the *Gazette of India*, Extraordinary, dated the 12th August, 1947.

proceedings, whether by way of appeal, revision or otherwise, shall be taken before the appropriate tax authority of the Dominion to which the case has been so transferred. **Div. 3 I**

5. No such transfer shall be called in question on the ground that the tax authority to which the proceeding is so transferred has no jurisdiction to deal with the case.

THE CONSTITUTION (DISTRIBUTION OF REVENUES) ORDER, 1953*

(*Notification No. S.R.O.* 510, *dated the* 16*th March,* 1953)

In exercise of the powers conferred on him by Articles 270, 273 and 275 of the Constitution of India and of all other powers enabling him in that behalf, the President, after having considered the recommendations of the Finance Commission, hereby makes the following Order :

1. This Order may be called the Constitution (Distribution of Revenues) Order, 1953.

2. The General Clauses Act, 1897 (X of 1897), applies for the interpretation of this Order as it applies for the interpretation of a Central Act.

3. (1) For the purposes of clause (2) of Article 270, two and three-quarters per cent of so much of the net proceeds of taxes on income as does not represent the net proceeds of taxes payable in respect of Union emoluments shall represent the proceeds attributable to Part C States for each financial year commencing on and after the first day of April, 1952.

(2) The percentage of the net proceeds of the taxes on income, except in so far as those proceeds represent proceeds attributable to Part C States or to taxes payable in respect of Union emoluments, which is to be assigned to Part A States and Part B States (other than the State of Jammu and Kashmir) under the said clause in each of the financial years commencing on and after the first day of April, 1952, shall be 55 per cent.

(3) The percentage of the net proceeds of the taxes on income falling to be distributed under clause (2) in each of the financial years commencing on and after the first day of April, 1952, among the said States shall be :—

STATE	PER CENT
Assam	2·25
Bihar	9·75
Bombay	17·50
Hyderabad	4·50
Madhya Bharat	1·75
Madhya Pradesh	5·25
Madras	15·25
Mysore	2·25
Orissa	3·50
Patiala and East Punjab States Union	0·75
Punjab	3·25
Rajasthan	3·50
Saurashtra	1 00
Travancore-Cochin	2·50
Uttar Pradesh	15·75
West Bengal	11·25

* Published in the *Gazette of India*, Extraordinary, Part II, Section 3, dated the 16th March, 1953.

Div. 3 I

Provided that if any Part B State is entitled to receive in any of the financial years commencing on and after the first day of April, 1952, any grant of financial assistance by the Government of India by virtue of an agreement under clause (1) of Article 278, the State shall be entitled either to the amount of the said grant or to the total of the sums falling to its share out of the net proceeds of the taxes on income under this Order and the net proceeds of the Union duties of excise under the Union Duties of Excise (Distribution) Act, 1953, whichever is greater.

4. In accordance with the provisions of clause (1) of Article 273, there shall be charged on the Consolidated Fund of India in each of the financial years commencing on and after the first day of April, 1952, as grants-in-aid of the revenues of each of the States specified below, in lieu of assignment of any share of the net proceeds in each year of export duty on jute and jute products to those States, the sum specified against it :—

STATE	UNDER ARTICLE 273
Assam	75 lakhs of rupees
Bihar	75 lakhs of rupees
Orissa	15 lakhs of rupees
West Bengal	150 lakhs of rupees

5. (1) In accordance with the provisions of clause (1) of Article 275, there shall be charged on the Consolidated Fund of India—

(*a*) in each of the financial years commencing on and after the first day of April, 1952, as grants-in-aid of the revenues of each of the States specified below the sum specified against it :—

STATE	UNDER ARTICLE 275
Assam	100 lakhs of rupees
Mysore	40 lakhs of rupees
Orissa	75 lakhs of rupees
Punjab	125 lakhs of rupees
Saurashtra	40 lakhs of rupees
Travancore-Cochin	45 lakhs of rupees
West Bengal	80 lakhs of rupees

(*b*) in each of the financial years specified below, as grants-in-aid of the revenues of each of the States so specified, for the expansion of primary education, the sum specified against it :—

STATE	1953–54 LAKHS OF RUPEES	1954–55 LAKHS OF RUPEES	1955–56 LAKHS OF RUPEES	1956–57 LAKHS OF RUPEES
Bihar	41	55	69	83
Hyderabad	20	27	33	40
Madhya Bharat	9	12	15	18
Madhya Pradesh	25	33	42	50
Orissa	16	22	27	32
Patiala and East Punjab States Union	5	6	8	9
Punjab	14	19	23	28
Rajasthan	20	26	33	40

(2) Any sum or sums payable under this paragraph shall be in addition to any sum or sums payable to the State under each of the provisos to clause (1) of Article 275.

6. The Constitution (Distribution of Revenues) Orders, 1950, 1951 and 1952 are hereby repealed.

J

STAMP DUTY AND COURT-FEES

LIABILITY OF INSTRUMENTS PRESENTED TO OR ISSUED BY INCOME-TAX AUTHORITIES TO STAMP DUTY AND COURT-FEES

Affidavits.—Exemption (b) to Article 4, Schedule I, Indian Stamp Act, 1899. does not apply to an affidavit required for the immediate purpose of being filed or used in any income-tax proceedings or before the Income-tax Officer or the Assistant Commissioner or the Commissioner, because none of these officers is a "Court."

Certified copies or extracts.—All copies or extracts certified to be true copies or extracts by officers in the Income-tax Department are, under Article 24, Schedule I, of the Indian Stamp Act, 1899, liable to stamp duty if under the law they are not chargeable with Court-fee (see exception below in the case of copies of appellate orders under section 31).

Powers of Attorney (Authorisation Letters).—The authorisation envisaged in section 61 is a "power of attorney." If it is in favour of a legal practitioner it is "*Wakalatnama*" or "*Mukhtarnama*" chargeable with Court-fee under Article 10 of Schedule II of the Court-Fees Act, 1870. If it is in favour of any other person, it would be a "power of attorney" chargeable to stamp duty under Article 48(c) of Schedule I of the Indian Stamp Act, 1899. The use of adhesive stamps is not permissible and the proper course is to use the stamp paper embossed with proper stamp.

The statements and explanation given by the person so authorised on behalf of the assessee are binding on the latter. There is, however, nothing to prevent the Income-tax Officer from allowing a representative to appear without acting for the assessee, *e.g.*, to produce documents or to explain accounts. In such cases the person producing accounts or evidence will be treated merely as a custodian of these accounts or evidence and no reliance can be placed upon any statement or explanation which he gives.

Orders—Copies of.—Under Schedule I, Article 6, of the Court-Fees Act, 1870, every copy of an order passed by an officer in the Income-tax Department in respect of any proceedings under the Act is chargeable with Court-fees except where the copy is meant for the applicant's private use or is presented to the Appellate Tribunal in connection with any appeal under the Act.

Under Article 9 of the same Schedule, every copy of an income-tax proceeding or order (not otherwise provided for by the Court-Fees Act) or copy of any account, statement, report or the like taken out of an office in the Income-tax Department is liable to Court-fees.

Article 6 of Schedule I of the Court-Fees Act applies to quasi-judicial orders, *e.g.*, assessment orders including orders enhancing assessments, orders under section 27, orders imposing penalties under section 25(2) and section 28(1) and all appellate and revisional orders generally; and Article 9 to other orders.

Div. 3 J

A copy of the assessment order passed under section 23 is supplied free of copying charges by the Income-tax Officer on an application by an assessee subject to certain conditions. Such a copy is also free of Court-fee under item (9) of Government of India Notification No. 4650, dated the 10th September 1889, if for the assessee's private use. But if a copy of the assessment order is filed as an exhibit in appeal, etc., it must be stamped with the proper Court-fee stamp. A copy of the appellate order passed by the Appellate Assistant Commissioner is supplied to the appellant free of cost as soon as the order has been passed. If such a copy is presented to the Appellate Assistant Commissioner for certification as a true copy, no copying or searching fee will be demanded.

The copy of the appellate order, being for the appellant's private use, is exempt from Court-fee under item (9) of the Government of India Notification No. 4650, dated the 10th September 1889, provided the exemption has been continued in the Notification issued by the State Governments concerned under section 35 of the Court-Fees Act. The certification of such copy would not of itself render it liable to stamp duty under Article 24 of Schedule I to the Indian Stamp Act. No Court-fee or other stamp will, therefore, be demanded for affixation to the certified copy.

Petitions—Applications.—Under Article 1 of Schedule II of the Court-Fees Act, 1870, every application or petition presented to "any executive officer" (which includes any officer in the Income-tax Department) for the purpose of obtaining a copy or translation of any order passed by such officer or any other document on record in such office is chargeable with Court-fees. Application to Appellate Assistant Commissioner for authentication of the copy of the appellate order supplied free to the appellant is also chargeable with Court-fee under this Article.

Under Article 1(*c*) of the same Schedule an application or petition presented to the Central Board of Revenue is chargeable with Court-fee.

Wakalatnama.—Under Article 10(*a*) and (*c*) of the same Schedule, a *Mukhtarnama* or *Wakalatnama* presented for the conduct of any one case to an officer in the Income-tax Department or the Central Board of Revenue is chargeable with Court-fee.

Appeal—Memorandum of.—An appeal preferred under section 30 of the Indian Income-tax Act, 1922, is liable to Court-fee under Article 11(*a*) of Schedule II of the Court-fees Act.

(*N.B.*—No Court-fee is chargeable on petitions presented under section 33A.)

Refunds.—Applications for refunds under sections 48, 48A and 49A of the Indian Income-tax Act are exempt from payment of Court-fees under clause (*xx*) of section 19 of the Court-fees Act.

Court-fees—Computation of.—In all those cases where the Court-fee is *ad valorem* the monetary value for the purpose of determining the Court-fee is the amount of tax or penalty levied by the Income-tax Officer.

Rates of duties.—Stamp duties and Court-fees vary from State to State. As regards the details of the rates, reference should be made to the various Stamp and Court-Fees Amendment Acts in the different States which have been passed in recent years.

LIABILITY OF INSTRUMENTS PRESENTED TO THE APPELLATE TRIBUNAL TO STAMP DUTY AND COURT-FEES

Div. 3 J

"*Wakalatnama*" or "*Mukhtarnama*" is chargeable with Court-fee under Article 10(*a*) of Schedule II to the Court-fees Act.

"*Power of Attorney*" has to be stamped in accordance with Article 48(*c*), Schedule I to the Indian Stamp Act.

"*Memorandum of appeal*" presented to the Appellate Tribunal and *copies of orders* passed by any Income-tax authority when such copies are presented to the Appellate Tribunal have been exempted from Court-fee by Notification of the Government of India in the Home Department No. 123-41-Public (J), dated the 29th January 1942.

The Registrar, Income-tax Appellate Tribunal, Bombay, has issued the following memorandum dated the 24th June, 1954, in respect of Court-fees to be charged on documents filed before the Tribunal:—

The question whether Court-fees should be charged on documents filed before the Tribunal in accordance with the provisions of the Central (Government of India) Court-fees Act without taking into consideration the amendments made by the different States, has been reviewed. It has been decided that Court-fees should be charged on documents filed before the Tribunal according to the scales laid down in the Central (Government of India) Court-fees Act and amendments in the scales made in different States should not be taken into consideration for this purpose. The amount of Court-fees payable at present on various documents filed before the Tribunal and on certified copies supplied by the Tribunal will, therefore, be as shown below:—

Serial No.	Nature of document	Provision of the C. F. Act	Amount of Court-fees payable
1.	Vakalatnama	Article 10(*a*), Schedule II	Eight annas
2.	Application for obtaining copy of any order of the Tribunal or of any other document on the record of the Tribunal	Last clause of Article 1(*a*), Schedule II	One anna
3.	Certified copy of any order of the Tribunal (which is not for private use)	Article 6, Schedule I (The value of the subject matter always exceeds fifty rupees)	Eight annas
4.	Certified copy of any other document on the record of the Tribunal (which is not for private use)	Article 9, Schedule I	Eight annas for every three hundred and sixty words or fraction of three hundred and sixty words

The scales of Court-fees mentioned above will be enforced with immediate effect.

REGISTRAR

K

DOUBLE TAXATION RELIEF

INCOME-TAX (DOUBLE TAXATION RELIEF) (INDIAN STATES) RULES, 1939*

(*Notification No.* 69, *dated the* 16*th September*, 1939)

In exercise of the powers conferred by section 49A of the Indian Income-tax Act, 1922 (XI of 1922), the Central Government is pleased to make the following rules for the granting of relief in respect of income on which tax has been paid both in British India and in certain Indian States, namely :—

1. (1) These rules may be cited as the Income-tax (Double Taxation Relief) (Indian States) Rules, 1939.

(2) They extend to the whole of British India including Berar, and every reference therein to British India shall be construed as including a reference to Berar.

2. In these rules,—

(*a*)(*i*) the expression "Indian income-tax" means income-tax and super-tax charged in accordance with the provisions of the said Act ;

(*ii*) the expression "Indian rate of tax" means the amount of Indian income-tax exclusive of super-tax after deduction of any relief due to a claimant under the other provisions of the said Act but before deduction of any relief due to him under these rules, divided by his total income after deducting therefrom any income (including income from a share in an unregistered firm) exempted from tax by or under the provisions of the said Act, added to the amount of Indian super-tax before deduction of any relief due to the claimant under these rules divided by his total income ;

(*b*) "State" means any of the Indian States specified in the Schedule to these rules ;

(*c*) the expression "State income-tax" means income-tax and super-tax charged in accordance with the provisions of the law relating to income-tax for the time being in force in the State ;

(*d*) the expression "State rate of tax" means the amount of State income-tax divided by the amount of the larger of the two incomes on which income-tax and super-tax respectively have been charged by the State ;

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* These rules are no longer in operation since sec. 49A under which they were made has been now substituted by a new section 49A by s. 3 of the Finance Act, 1953 (14 of 1953).

For the sake of clarity these rules are reproduced above without the amendments which were effected by the Adaptation of Laws Order, 1950.

(*e*) the expression "corresponding year" in relation to a year of assessment in British India means the year for the purposes of State income-tax which by order of the Central Board of Revenue shall be deemed to correspond with such year of assessment in British India;

(*f*) the reference to the lower of the two rates shall, where the rates are equal, be construed as a reference to either of those two rates.

3. If any person who has paid by deduction under section 18 of the Indian Income-tax Act, 1922, or otherwise, Indian income-tax for any year on any part of his income proves to the satisfaction of the Income-tax Officer that he has paid for the corresponding year by deduction or otherwise State income-tax in respect of that part of his income, he shall be entitled to the refund of Indian income-tax calculated on that part of his income at a rate bearing to the Indian rate of tax or the State rate of tax, whichever is the lower, the same proportion as the Indian rate of tax bears to the sum of the Indian rate of tax and the State rate of tax: Provided that where in respect of that part of the income relief has already been obtained under this rule on account of taxation in another State or further relief is admissible in British India on account of taxation in the United Kingdom or Ceylon, the refund shall be so regulated that together with such other relief the aggregate relief shall not exceed half the Indian rate of tax.

4. (1) The application for refund of income-tax under these rules shall be made as follows:—

(*i*) If the applicant is resident in British India, to the Income-tax Officer of the District in which the applicant is chargeable directly to income-tax, or if he is not chargeable directly, to the Income-tax Officer of the District in which he ordinarily resides;

(*ii*) If the applicant is resident outside British India, to the Income-tax Officer appointed by the Central Board of Revenue.

(2) Such application may be presented by the applicant in person or by a duly authorised agent or may be sent by post, and shall be in Form I appended to these rules.

5. No claim to any refund of Indian income-tax or super-tax under these rules shall be allowed unless it is made within four years from the last day of the financial year commencing next after the expiry of the previous year in which the income arose, accrued or was received or was deemed to have arisen, accrued or been received or was brought into British India:

Provided that where the claim is to a refund of income-tax or super-tax paid prior to the 1st April, 1939, the claim shall not be allowed unless it is made within one year from the last day of the year in which such tax or the State income-tax was recovered, whichever is later.

6. An applicant for refund under these rules may appeal to the Appellate Assistant Commissioner of Income-tax from any order of the Income-tax Officer disallowing the claim for refund either wholly or in part.

Div. 3 K **7.** The appeal shall be presented within thirty days of the date on which the order of the Income-tax Officer was communicated to the applicant and shall be in Form II appended to these rules.

SCHEDULE

Gujarat States Agency

1. Baroda. 2. Chhota Udepur. 3. Sachin.

Kashmir Agency

1. Jammu and Kashmir.

Madras States Agency

1. Travancore. 2. Cochin.

Mysore Agency

1. Sandur.

Central India Agency

1. Dhar. 2. Makrai. 3. Bhopal.

Punjab States Agency

1. Patiala. 4. Kapurthala. 7. Faridkot.
2. Bahawalpur. 5. Maler Kotla. 8. Tehri Garhwal.
3. Jind. 6. Mandi.

Punjab Hill States Agency

1. Baghat.

Deccan States Agency

1. Akalkot. 4. Kolhapur. 7. Mudhol.
2. Phaltan. 5. Sangli. 8. Kurundwad (Sr.).
3. Ramdurg. 6. Jamkhandi. 9. Miraj (Sr.).

Gwalior Agency

1. Benares. 2. Rampur.

Eastern States Agency

1. Bastar. 10. Chhuikhadan. 19. Gangpur.
2. Kanker. 11. Mayurbhanj. 20. Kharsawan.
3. Raigarh. 12. Patna. 21. Keonjhar.
4. Jashpur. 13. Sonepur. 22. Cooch-Behar.
5. Sarangarh. 14. Kalahandi. 23. Surguja.
6. Kawardha. 15. Rairakhol. 24. Bonai.
7. Kharagarh. 16. Baudh. 25. Narsinghpur.
8. Korea. 17. Seraikala. 26. Athmallik.
9. Nandgaon. 18. Talcher.

Rajputana States Agency

1. Bundi.

Assam States

1. Tripura.

Union of States

1. The Union of Saurashtra.

Hyderabad State

FORM I

(See rule 4.)

Application for relief from double income-tax under the Income-tax (Double Taxation Relief) (Indian States) Rules, 1939*

I, of , do hereby state that I have paid [or under the provisions of section 49B of the Indian Income-tax Act, 1922 (XI of 1922), must be deemed to have paid] (name of State) State income-tax/income-tax and super-tax amounting to Rs. for the year ending 19 on an †income of Rs. and that Indian income-tax/income-tax and super-tax of Rs. has also been paid [or under the provisions of section 49B of the Indian Income-tax Act, 1922 (XI of 1922), must be deemed to have been paid] on the same income† /part of the same income amounting to Rs. . I now pray for relief at the rate of amounting to Rs. to which I am entitled under the Income-tax (Double Taxation Relief) (Indian States) Rules, 1939. My income from all sources during the "previous year" ending on the 19 , amounted to Rs. only—see Return of income attached/already submitted.

Signature

I hereby declare that what is stated herein is correct.

Signature

Dated 19 .

* In the case of the persons specified in the 2nd column of the following statement, the application for relief shall be made to the Income-tax Officer specified in the corresponding entry in the 3rd column thereof :

Serial No.	Persons	Income-tax Officer appointed by the Central Board of Revenue to whom application for relief should be made
1	2	3
1.	Persons (excluding those who fall under Serial No. 5) not resident in British India whose total income is made up of income wholly taxed at source or dividends or both.	Income-tax Officer, Non-Residents Refund Circle, Bombay.
2.	Persons (excluding those who fall under Serial No. 5) not resident in British India and not assessed through statutory agents under section 43, any part of whose income is derived from horse racing.	Income-tax Officer, A Ward, Poona.

† Where the income on which income-tax has been charged differs from that on which super-tax has been charged, both amounts must be specified.

Div. 3 K

Serial No.	Persons	Income-tax Officer appointed by the Central Board of Revenue to whom application for relief should be made
1	2	3
3.	Persons not resident in British India assessed through statutory agents under section 43 of the Indian Income-tax Act, 1922, whether their income arises in a single Province or in more than one Province.	Income-tax Officer of the District in which the statutory agent carries on the business by reason of which income-tax is chargeable in his name under section 42, or where he resides, as the case may be.
4.	Persons (excluding those who fall under Serial No. 5) not resident in British India who do not fall under Serial Nos. 1 and 2 and not assessed through statutory agents under section 43 with any income for direct assessment (*e.g.*, house property, interest, etc.).	The Income-tax Officer of the circle in which arose the greater part of the income for assessment in 1939-40 or in the first year of assessment, whichever year is later: provided that the same officer shall have jurisdiction for subsequent years so long as some income for direct assessment (not necessarily the greater part) continues to arise within his jurisdiction.
5.	(*i*) Defence Services Employees under the audit control of the Field Controller of Military Accounts, Officers and Clearing House, Poona, and/or the Field Controller of Military Accounts, other Ranks, Ambala, excluding (*a*) Employees, whether civil or military, who are members of or are attached to the Military Accounts Department, and (*b*) Employees who are partners in a firm in British India or who have income from business carried on in British India. (*ii*) Persons resident outside India who at the time of departure from India were Defence Services Employees under the audit control of Field Controller of Military Accounts, Officers and Clearing House, Poona (or previously Field Controller of Military Accounts, Poona) or the Field Controller of Military Accounts, other Ranks, Ambala, and who are not under the audit control of any other audit officer in India in respect of accounting periods during which they were Defence Services Employees in Indian payment. (*iii*) Persons being widows or dependents of Defence Services Employees in the payment of the Field Controller of Military Accounts, Officers and Clearing House, Poona (or previously Field Controller of Military Accounts, Poona) or the Field Controller of Military Accounts, other Ranks, Ambala.	Income-tax Officer attached to the Adjutant General's Branch, General Head Quarters (India) and stationed at Poona.

FORM II

Div. 3
K

(*See rule* 7.)

Appeal from an order of the Income-tax Officer disallowing a claim for refund under the Income-tax (Double Taxation Relief) (Indian States) Rules, 1939

To

The Appellate Assistant Commissioner of Income-tax.

The day of 19 .

The petition of of post office,

District, sheweth as follows :—

Your petitioner applied to the Income-tax Officer for a refund under the Income-tax (Double Taxation Relief) (Indian States) Rules, 1939, of Rs. . The Income-tax Officer has by his order, dated the of which a copy is attached, rejected the application/granted a refund of only Rs. Intimation of this order was received by your petitioner on

Your petitioner therefore requests that the order of the Income-tax Officer may be set aside and the refund asked for may be granted.

**Signed*

GROUNDS OF APPEAL

Form of verification

I, , the petitioner named in the above petition do declare that what is stated therein is true to the best of my information and belief.

**Signed*

* The form of appeal and the form of verification appended thereto shall be signed—

(*a*) in the case of an individual, by the individual himself;

(*b*) in the case of a Hindu undivided family, by the Manager or *Karta* ;

(*c*) in the case of a company or local authority, by the principal officer ;

(*d*) in the case of a firm, by a partner ; and

(*e*) in the case of any other association, by a member of the association.

INCOME-TAX (DOUBLE TAXATION RELIEF) (UNITED KINGDOM) RULES, 1948*

(*Notification No.* 50, *dated the* 25*th September*, 1948)

In exercise of the powers conferred by section 49A of the Indian Income-tax Act, 1922 (XI of 1922), the Central Government is pleased to make the following rules for the granting of relief in respect of income on which tax has been paid both in the Provinces of India and in the United Kingdom, namely :—

1. These rules may be cited as the Income-tax (Double Taxation Relief) (United Kingdom) Rules, 1948.

2. In these rules,—

(*a*) the expression "Indian income-tax" means income-tax and super-tax charged in accordance with the provisions of Indian Income-tax Act, 1922 (XI of 1922) (hereinafter in these rules referred to as the said Act) ;

(*b*) the expression "Indian rate of tax" means the amount of Indian income-tax exclusive of super-tax after deduction of any relief due to a claimant under other provisions of the said Act but before deduction of any relief under these rules, divided by his total income after deducting therefrom any income (including income from a share in an unregistered firm) exempted from tax by or under the provisions of the said Act, added to the amount of Indian super-tax before deduction of any relief due to the claimant under these rules divided by his total income ;

(*c*) the expression "United Kingdom income-tax" means income-tax and super-tax chargeable in accordance with the provisions of Income-tax Acts ;

(*d*) the expression "appropriate rate of United Kingdom income-tax" has the meaning assigned to that expression in section 27 of the Finance Act, 1920, as amended by the Finance Act, 1927.

3. If any person who has paid by deduction under section 18 of the said Act or otherwise Indian income-tax for the year of assessment ending on the 31st day of March, 1949, or for any earlier year on any part of his income proves to the satisfaction of the Income-tax Officer that he has paid by deduction or otherwise United Kingdom income-tax for the corresponding year in respect of the same part of his income and that the rate at which he was entitled to, and has obtained, relief under the provisions of section 27 of the Finance Act, 1920, is less than the Indian rate of tax charged in respect of that part of his income he shall be entitled to a refund of a sum calculated on that part of his income at a rate equal to the difference between the Indian rate of tax or the appropriate rate of United Kingdom income-tax, whichever is less, and the rate at which he was entitled to, and obtained, relief under that section.

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* These rules are no longer operative since, as is clear from rule 3, they apply only upto the assessment year ended 31st March, 1949.

4. (1) The application for refund of income-tax under these rules shall be made as follows :— **Div. 3 K**

(*i*) if the applicant is resident in the Provinces of India, to the Income-tax Officer of the District in which the applicant is chargeable directly to income-tax, or if he is not chargeable directly, to the Income-tax Officer of the District in which he ordinarily resides;

(*ii*) if the applicant is resident outside the Provinces of India, to the Income-tax Officer appointed by the Central Board of Revenue.

(2) Such application may be presented by the applicant in person or by a duly authorised agent or may be sent by post, and shall be in Form A appended to these rules.

5. No claim to any refund of Indian income-tax or super-tax under these rules shall be allowed unless it is made within four years from the last day of the financial year commencing next after the expiry of the previous year in which the income arose, accrued or was received or was deemed to have arisen, accrued or been received or was brought into the Provinces of India.

6. An applicant for refund under these rules may appeal to the Appellate Assistant Commissioner of Income-tax from any order of the Income-tax Officer disallowing the claim for refund wholly or in part.

7. The appeal shall be presented within 30 days of the date on which the order of the Income-tax Officer was communicated to the applicant and shall be in Form B appended to these rules.

FORM A

Application for relief from double income-tax under the Income-tax (Double Taxation Relief) (United Kingdom) Rules, 1948

I, of , do hereby state that I have paid (or under the provisions of section 49B of the Indian Income-tax Act must be deemed to have paid) United Kingdom income-tax and super-tax amounting to £ for the year ending 19 , on an income of £ and that Indian income-tax/income-tax and super-tax of Rs. has also been paid (or under the provisions of section 49B of the said Act must be deemed to have been paid) on the same income/income from the same source amounting to Rs. . I have obtained relief under the provisions of section 27 of the Finance Act, 1920, at the rate of in accordance with the attached certificate from His Majesty's Inspector of Taxes.

I now pray for a further relief at the rate of amounting to Rs. to which I am entitled. My income from all sources to which this Act applies during the "previous year" ending on the 19 ,

Div. 3 K amounted to Rs. only—see Return of income attached/already submitted.

Signature

I hereby declare that what is stated herein is correct.

Signature

Dated 19 .

FORM B

Appeal from an order of the Income-tax Officer disallowing a claim for refund under the Income-tax (Double Taxation Relief) (United Kingdom) Rules, 1948

To

The Appellate Assistant Commissioner of Income-tax.

The day of 19 .

The petition of of post office,

District, sheweth as follows :—

Your petitioner applied to the Income-tax Officer for a refund under the Income-tax (Double Taxation Relief) (United Kingdom) Rules, 1948, of Rs. . The Income-tax Officer has by his order, dated the of which a copy is attached, rejected the application. / granted a refund of only Rs. .

Intimation of this order was received by your petitioner on

Your petitioner therefore requests that the order of the Income-tax Officer may be set aside and the refund asked for may be granted.

**Signed*

GROUNDS OF APPEAL

Form of verification

I, , the petitioner named in the above petition do declare that what is stated therein is true to the best of my information and belief.

**Signed*

* The form of appeal and the form of verification appended thereto shall be signed—

(*a*) in the case of an individual, by the individual himself ;

(*b*) in the case of a Hindu undivided family, by the Manager or *Karta* ;

(*c*) in the case of a company or local authority, by the principal officer ;

(*d*) in the case of a firm, by a partner ; and

(*e*) in the case of any other association, by a member of the association.

INCOME-TAX (DOUBLE TAXATION RELIEF) (ADEN) RULES, 1953

(Notification No. 23-I.T., dated the 24th March, 1953)

In exercise of the powers conferred by section 49A of the Indian Income-tax Act, 1922 (XI of 1922), and in supersession of the Notification of the Government of India in the late Finance Department (Central Revenues), No. 18-I.T., dated the 21st February, 1942, the Central Government hereby makes the following rules for the grant of relief in respect of income on which tax has been paid both in the taxable territories and in Aden, namely :—

1. These rules may be cited as the Income-tax (Double Taxation Relief) (Aden) Rules, 1953.

2. In these rules,—

(*a*) the expression "Aden income-tax" means income-tax and super-tax charged for any year in accordance with the provisions of the Aden Income-tax Ordinance, 1951 ;

(*b*) the expression "Aden rate of tax" means the amount of Aden income-tax divided by the amount of the income on which it was charged ;

(*c*) the expression "Indian income-tax means income-tax and super-tax chargeable in accordance with the provisions of any law in force in the taxable territories ;

(*d*) the expression "Indian rate of tax" means the rate determined by dividing the amount of income-tax paid in the taxable territories for the year in question by the amount of income on which tax was charged ;

(*e*) the reference to the lower of the two rates shall, where the rates are equal, be construed as a reference to either of those two rates.

3. If any person who has paid by deduction under section 18 of the Indian Income-tax Act, 1922, or otherwise, Indian income-tax for any year on any part of his income proves to the satisfaction of the Income-tax Officer that he has paid by deduction or otherwise Aden income-tax for that year in respect of the same part of his income, he shall be entitled to a refund calculated on that part of his income at a rate to be determined as follows :

(*i*) if he is resident in the taxable territories the rate at which refund is to be given shall be :—

(*a*) the Aden rate of tax, when that rate does not exceed half of the Indian rate of tax, and

(*b*) half the Indian rate of tax, in any other case ;

(*ii*) if he is not resident in the taxable territories the rate at which refund is to be given shall be :—

(*a*) half of the Aden rate of tax when that rate does not exceed the Indian rate of tax, and

(*b*) in any other case, the amount by which the Indian rate of tax exceeds half of the Aden rate of tax.

4. (1) The application for refund of income-tax under these rules shall be made as follows :—

(*i*) if the applicant is resident in the taxable territories, to the Income-tax Officer of the District in which the applicant is chargeable directly, to the Income-tax Officer of the District in which he ordinarily resides ;

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(*ii*) if the applicant is resident outside the taxable territories, to the Income-tax Officer appointed by the Central Board of Revenue.

(2) Such application may be presented by the applicant in person or by a duly authorised agent or may be sent by post, and shall be in Form I appended to these rules.

5. No claim to any refund of Indian income-tax or super-tax under these rules shall be allowed unless it is made within four years from the last day of the financial year commencing next after the expiry of the previous year in which the income arose, accrued or was received or was deemed to have arisen, accrued or been received or was brought into the taxable territories.

6. An applicant for refund under these rules may appeal to the Appellate Assistant Commissioner of Income-tax from any order of the Income-tax Officer disallowing the claim for refund either wholly or in part.

7. The appeal shall be presented within thirty days of the date on which the order of the Income-tax Officer was communicated to the applicant, and shall be in Form II appended to these rules.

FORM I

(*See rule* 4.)

Application for relief from double income-tax under the Income-tax (Double Taxation Relief) (Aden) Rules*, 1953

I, of , do hereby state that I have paid [or under the provisions of section 49B of the Indian Income-tax Act, 1922 (XI of 1922), must be deemed to have paid] Aden income-tax/income-tax and super-tax amounting to Rs. for the year ending 19 on an †income of Rs. and that Indian income-tax/income-tax and super-tax of Rs. has also been paid [or under the provisions of section 49B of the Indian Income-tax Act, 1922 (XI of 1922), must be deemed to have been paid] on the same income†/part of the same income amounting to Rs. . I now pray for relief at the rate of amounting to Rs. to which I am entitled under the Income-tax (Double Taxation Relief) (Aden) Rules, 1953. My income from all sources during the "previous year" ending on the 19 , amounted to Rs. only —see Return of income attached/already submitted.

Signature

* In the case of the persons specified in the second column of the following statement, the application for relief shall be made to the Income-tax Officer specified in the corresponding entry in the 3rd column thereof.

† Where the income on which income-tax has been charged differs from that on which super-tax has been charged, both amounts must be specified.

I hereby declare that what is stated herein is correct. **Div. 3 K**

Signature

Dated 19 .

Serial No.	Persons	Income-tax Officer appointed by the Central Board of Revenue to whom application for relief should be made
1	2	3
1	Persons (excluding those who fall under Serial No. 5) not resident in the taxable territories whose total income is made up of income wholly taxed at source or dividends or both.	Income-tax Officer, Non-Residents Refund Circle, Bombay.
2	Persons (excluding those who fall under Serial No. 5) not resident in the taxable territories and not assessed through statutory agents under section 43, any part of whose income is derived from horse racing.	Income-tax Officer, A Ward, Poona.
3	Persons not resident in the taxable territories assessed through statutory agents under section 43 of the Indian Income-tax Act, 1922, whether their income arises in a single Province or in more than one Province.	Income-tax Officer of the District in which the statutory agent carries on the business by reason of which income-tax is chargeable in his name under section 42, or where he resides, as the case may be.
4	Persons (excluding those who fall under Serial No. 5) not resident in the taxable territories who do not fall under Serial Nos. 1 and 2 and not assessed through statutory agents under section 43 with any income for direct assessment (*e.g.*, house property, interest, etc.).	The Income-tax Officer of the circle in which arose the greater part of the income for assessment in 1953-54 or in the first year of assessment, whichever year is later: provided that the same officer shall have jurisdiction for subsequent years so long as some income for direct assessment (not necessarily the greater part) continues to arise within his jurisdiction.
5	(*i*) Defence Services Employees under the audit control of the Field Controller of Military Accounts, Officers and Clearing House, Poona, and/or the Field Controller of Military Accounts, other Ranks, Ambala, excluding (*a*) Employees, whether civil or military, who are members of or are attached to the Military Accounts Department, and (*b*) Employees who are partners in a firm in the taxable territories or who have income from business carried on in the taxable territories. (*ii*) Persons resident outside India who at the time of departure from India were Defence Services Employees under the audit control of Field Controller of Military Accounts, Officers and Clearing House, Poona, or previously Field Controller of Military Accounts, Poona, or	Income-tax Officer attached to the Adjutant General's Branch, General Head Quarters (India) and stationed at Poona.

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Serial No.	Persons	Income-tax Officer appointed by the Central Board of Revenue to whom application for relief should be made
1	2	3
	the Field Controller of Military Accounts, other Ranks, Ambala, and who are not under the audit control of any other audit officer in India in respect of accounting periods during which they were Defence Services Employees in Indian payment. (*iii*) Persons being widows or dependents of Defence Services Employees in the payment of the Field Controller of Military Accounts, Officers and Clearing House, Poona (or previously Field Controller of Military Accounts, Poona) or the Field Controller of Military Accounts, other Ranks, Ambala.	

FORM II

(*See rule* 7.)

Appeal from an order of the Income-tax Officer disallowing a claim for refund under the Income-tax (Double Taxation Relief) (Aden) Rules, 1953

To

The Appellate Assistant Commissioner of Income-tax.

The day of 19 .

The petition of of post office,

District, sheweth as follows :—

Your petitioner applied to the Income-tax Officer for refund under the Income-tax (Double Taxation Relief) (Aden) Rules, 1953, of Rs. . The Income-tax Officer has by his order, dated the of which a copy is attached, rejected the application/granted a refund of only Rs. . Intimation of this order was received by your petitioner on .

Your petitioner therefore requests that the order of the Income-tax Officer may be set aside and the refund asked for may be granted.

**Signed*

GROUNDS OF APPEAL

Form of verification

I, , the petitioner named in the above petition do declare that what is stated therein is true to the best of my information and belief.

**Signed*

* The form of appeal and the form of verification appended thereto shall be signed—
(*a*) in the case of an individual, by the individual himself;
(*b*) in the case of Hindu undivided family, by the Manager or *Karta*;
(*c*) in the case of a company or local authority, by the principal officer;
(*d*) in the case of a firm, by a partner; and
(*e*) in the case of any other association, by a member of the association.

INCOME-TAX (DOUBLE TAXATION RELIEF) (DOMINIONS) RULES, 1956

(*Notification No. S.R.O.* 1534, *dated the* 23*rd June*, 1956)

In exercise of the powers conferred by section 49A of the Indian Income-tax Act, 1922 (XI of 1922), and in supersession of the notification of the Government of India in the late Finance Department (Central Revenues), No. 1, dated the 4th January, 1941, the Central Government makes the following rules for the granting of relief in respect of income on which tax has been paid both in the taxable territories and in certain of Her Majesty's Dominions, namely :—

1. (1) These rules may be called the Income-tax (Double Taxation Relief) (Dominions) Rules, 1956.

(2) They extend to the taxable territories as defined in section 2(14A) of the Indian Income-tax Act, 1922 (XI of 1922).

2. In these rules unless the context otherwise requires—

(*a*) "Dominion" means any of the territories specified in the first column of the Schedule annexed to these rules ;

(*b*) "Dominion income-tax" means tax charged for any year in accordance with the provisions of the dominion enactment specified in the second column of the said Schedule ;

(*c*) "Dominion rate of tax" has the meaning assigned to it in the section of the respective dominion enactment specified in the third column of the said Schedule ;

(*d*) the expression "Indian income-tax" means income-tax and super-tax charged in accordance with the provisions of the Indian Income-tax Act, 1922 (XI of 1922) ;

(*e*) the expression "Indian rate of tax" means the amount of Indian income-tax exclusive of super-tax after deduction of any relief due to a claimant under the other provisions of the Indian Income-tax Act, 1922 (XI of 1922), but before deduction of any relief due to him under these rules, divided by his total income after deducting therefrom any income (including income from a share in an unregistered firm) exempted from tax by or under the provisions of the said Act, added to the amount of Indian super-tax before deduction of any relief due to the claimant under these rules divided by his total income.

3. If any person who has paid by deduction under section 18 of the Indian Income-tax Act, 1922 (XI of 1922), or otherwise Indian income-tax for any year on any part of his income proves to the satisfaction of the Income-tax Officer that he has paid by deduction or otherwise dominion income-tax for that year in respect of the same part of his income, he shall be entitled to a refund of a sum calculated on that part of his income at a rate to be determined as follows :—

(*i*) If he is resident in the taxable territories the rate at which refund is to be given shall be—

(*a*) the dominion rate of tax, when that rate does not exceed half of the Indian rate of tax ; and

(*b*) half the Indian rate of tax, in any other case.

(*ii*) If he is not resident in the taxable territories the rate at which refund is to be given shall be—

(*a*) half of the dominion rate of tax, when that rate does not exceed the Indian rate of tax ; and

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(*b*) in any other case, the amount by which the Indian rate of tax exceeds half of the dominion rate of tax :

Provided that in no case shall the rate at which such refund is calculated exceed half the Indian rate of tax appropriate to the income of the person entitled to relief or be greater than the excess of the lower of the Indian and the dominion rate of tax over the rate at which relief is given in the dominion.

4. (1) The application for refund of income-tax under these rules shall be made as follows :—

(*i*) If the applicant is resident in the taxable territories, to the Income-tax Officer of the District in which the applicant is chargeable directly to income-tax, or if he is not chargeable directly, to the Income-tax Officer of the District in which he ordinarily resides.

(*ii*) If the applicant is resident outside the taxable territories, to the Income-tax Officer appointed by the Central Board of Revenue.

(2) Such application may be presented by the applicant in person or by a duly authorised agent or may be sent by post, and shall as far as circumstances permit be in Form I appended to these rules.

5. No claim to any refund of Indian income-tax or super-tax under these rules shall be allowed unless it is made within four years from the last day of the financial year commencing next after the expiry of the previous year in which the income arose, accrued or was received or was deemed to have arisen, accrued or been received or was brought into the taxable territories.

6. An applicant for refund under these rules may appeal to the Appellate Assistant Commissioner of Income-tax from any order of the Income-tax Officer disallowing the claim for refund either wholly or in part.

7. The appeal shall be presented within thirty days of the date on which the order of the Income-tax Officer was communicated to the applicant, and shall, as far as circumstances permit, be in Form II appended to these rules.

FORM I

(*See rule* 4.)

Application for relief from double income-tax under the Income-tax (Double Taxation Relief) (Dominions) Rules*, 1956

I, of , do hereby state that I have paid [or under the provisions of section 49B of the Indian Income-tax Act, 1922 (XI of 1922), must be deemed to have paid] (name of dominion) income-tax amounting to £ for the year ending 19 on an income of £ and that Indian income-tax/income-tax and super-tax of Rs. has also been paid [or under the provisions of section 49B of the Indian Income-tax Act, 1922 (XI of 1922), must be deemed to have been

* In the case of the persons specified in the second column of the following statement, the application for relief shall be made to the Income-tax Officer specified in the corresponding entry in the 3rd column thereof.

paid] on the same income†/part of the same income amounting to Rs. . **Div. 3 K**
I now pray for relief at the rate of amounting to Rs.
to which I am entitled under the Income-tax (Double Taxation Relief) (Dominions) Rules, 1956. My income from all sources during the previous year ending on the 19 , amounted to Rs. only—see Return of income attached/already submitted.

Signature

I hereby declare that what is stated herein is correct.

Signature

Dated 19 .

Serial No.	Persons	Income-tax Officer appointed by the Central Board of Revenue to whom applications for relief should be made
1	2	3
1	Persons (excluding those who fall under Serial No. 12) not residing in the taxable territories and not assessed through statutory agents under section 43 any part of whose income is derived from horse racing.	Income-tax Officer, "A" Ward, Poona.
2	Persons (excluding those who fall under Serial Nos. 9, 10 and 12) not resident in the taxable territories whose total income is made up of income wholly taxed at source or dividends or both and which exceeds Rs. 25,000.	First Income-tax Officer, Non-Residents Refund Circle, Bombay.
3	Persons (excluding those who fall under Serial Nos. 9, 10 and 12) not resident in the taxable territories claiming double income-tax relief whose total world income in the previous three years exceeded Rs. 25,000.	First Income-tax Officer, Non-Residents Refund Circle, Bombay.
4	Persons (excluding those who fall under Serial Nos. 9, 10 and 12) not resident in the taxable territories whose total world income is over Rs. 10,000 but not exceeding Rs. 25,000 and total income is made up of income wholly taxed at source or dividends or both.	Second Income-tax Officer, Non-Residents Refund Circle, Bombay City.
5	Persons (excluding those who fall under Serial Nos. 9, 10 and 12) not resident in the taxable territories claiming double income-tax relief whose total world income in the previous three years exceeds Rs. 10,000 but does not exceed Rs. 25,000.	Second Income-tax Officer, Non-Residents Refund Circle, Bombay City.

† Where the income on which income-tax has been charged differs from that on which super-tax has been charged, both amounts must be specified.

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Serial No.	Persons	Income-tax Officer appointed by the Central Board of Revenue to whom applications for relief should be made
1	2	3
6	Religious and charitable institutions outside the taxable territories not liable to income-tax under section 4(3)(*i*) and (*ii*) of the Indian Income-tax Act, 1922, applying for refund of tax deducted at source or for exemption certificates.	Third Income-tax Officer, Non-Residents Refund Circle, Bombay.
7	Persons (excluding those who fall under Serial Nos. 9, 10 and 12) not resident in the taxable territories claiming double income-tax relief whose total income in the previous three years did not exceed Rs. 10,000.	Third Income-tax Officer, Non-Residents Refund Circle, Bombay.
8	Persons (excluding those who fall under Serial Nos. 9, 10 and 12) not resident in the taxable territories whose income does not exceed Rs. 10,000 and total income wholly taxed at source or dividends or both.	Third Income-tax Officer, Non-Residents Refund Circle, Bombay.
9	Persons not resident in the taxable territories assessed through statutory agents under section 43 of the Indian Income-tax Act, 1922, whether their income arises in a single State or in more than one State.	Income-tax Officer of the district in which the statutory agent carries on the business by reason of which income-tax is chargeable in his name under section 42 or where he resides, as the case may be.
10	Non-resident pensioners not assessed through statutory agents under section 43 who draw their pension in the United Kingdom or in a Colony, from a company or any other private employer who is assessed in India.	Income-tax Officer having jurisdiction over the employees of the employer paying pension.
11	Foreign associations or companies which are declared by the Central Board of Revenue as a "company" under section 2(6)(*ii*) of the Indian Income-tax Act, and whose total income is made up of income wholly taxed at source or dividends or both.	Income-tax Officer assessing the respective Indian subsidiaries or Indian concerns through which such non-residents are in receipt of income.
12	(*i*) Defence Services Employees under the audit control of the Controller of Defence Accounts (Officers) Poona and/or the Controller of Defence Accounts (other Ranks), Secunderabad, and the D.C.M.A., Jamnagar, excluding (*a*) Employees, whether civil or military, who are members of or are attached to the Military Accounts Department, and (*b*) Employees who are partners in a firm in the taxable territories or who have income from business carried on in the taxable territories.	Income-tax Officer, General Head-quarters, stationed at Poona.

Serial No.	Persons	Income-tax Officer appointed by the Central Board of Revenue to whom applications for relief should be made
1	2	3
	(*ii*) Persons resident outside the taxable territories who at the time of departure from the taxable territories were Defence Services Employees under the audit control of the Controller of Defence Accounts (Officers), Poona (or previously Field Controller of Military Accounts, Poona) or the Controller of Defence Accounts (other Ranks), Secunderabad, and who are not under the audit control of any other audit officer in the taxable territories in respect of accounting periods during which they were Defence Services Employees in Indian payment. (*iii*) Persons being widows or dependents of Defence Service Employees, in the payment of the Controller of Defence Accounts (Officers), Poona (or previously Field Controller of Military Accounts, Poona) or the Controller of Defence Accounts (other Ranks), Secunderabad.	
13	Persons (excluding those who fall under Serial No. 12) not resident in the taxable territories who do not fall under Serial Nos. 1 and 2 and not assessed through statutory agents under section 43 with any income for direct assessment (*e.g.* house property, interest, etc.).	The Income-tax Officer of the circle in which arose the greater part of the income for assessment in 1939-40 or in the first year of assessment whichever year is later: Provided that the same Officer shall have jurisdiction for subsequent years so long as some income for direct assessment (not necessarily the greater part) continues to arise within his jurisdiction.

Form II

(*See rule* 7.)

Appeal from an order of the Income-tax Officer disallowing a claim for refund under the Income-tax (Double Taxation Relief) (Dominions) Rules, 1956

To

The Appellate Assistant Commissioner of Income-tax.

The day of 19 .

The petition of of post office,

District, sheweth as follows :—

Your petitioner applied to the Income-tax Officer for a refund under the Income-tax (Double Taxation Relief) (Dominions) Rules, 1956, of Rs. .

The Income-tax Officer has by his order, dated the , of which a copy is attached, rejected the application/granted a refund of only Rs. . Intimation of this order was received by your petitioner on .

Div. 3 K Your petitioner therefore requests that the order of the Income-tax Officer may be set aside and the refund asked for may be granted.

**Signed*

GROUNDS OF APPEAL

Form of verification

I, , the petitioner named in the above petition do declare that what is stated therein is true to the best of my information and belief.

**Signed*

* The form of appeal and the form of verification appended thereto shall be signed—
(*a*) in the case of an individual, by the individual himself;
(*b*) in the case of a Hindu undivided family, by the Manager or *Karta*;
(*c*) in the case of a company or local authority, by the principal officer;
(*d*) in the case of a firm, by a partner; and
(*e*) in the case of any other association, by a member of the association.

SCHEDULE

1	2	3
Kenya	East African Income-tax (Management) Act, 1952.	Section 46(4) read with section 45(3).
Tanganyika	East African Income-tax (Management) Act, 1952.	Section 46(4) read with section 45(3).
Uganda	East African Income-tax (Management) Act, 1952.	Section 46(4) read with section 45(3).
Zanzibar	The Zanzibar Income-tax (Management) Decree, 1952.	Section 46(4) read with section 45(3).
Gold Coast . . .	Income-tax Ordinance, 1943, of Gold Coast.	Section 31(4).
Nigeria . ..	Income-tax Ordinance, 1943, of Nigeria.	Section 32(3).
Sierra Leone	Income-tax Ordinance, 1943, of Sierra Leone.	Section 32(4).
Gambia	Gambia Income-tax Ordinance, 1948, of Gambia.	Section 29, sub-section (1)(3).
Mauritius	Income-tax Ordinance, 1950, of Mauritius.	Section 86(3).

AGREEMENT FOR AVOIDANCE OF DOUBLE TAXATION IN INDIA AND PAKISTAN

(*Notification No.* 28, *dated the* 10*th December*, 1947)

In exercise of the powers conferred by section 49AA of the Indian Income-tax Act, 1922 (XI of 1922), section 11A of the Excess Profits Tax Act, 1940 (XV of 1940), and section 18A of the Business Profits Tax Act, 1947 (XXI of 1947), as adapted by the India (Adaptation of Income-tax, Profits Tax and Revenue Recovery Acts) Order, 1947, the Central Government is pleased to direct that all provisions of the annexed agreement for the avoidance of double taxation of income, profits and gains under the said Acts which has been concluded between India and Pakistan shall be given effect to in the Dominion of India.

Agreement for the avoidance of double taxation of income between the Government of the Dominion of India and the Government of the Dominion of Pakistan

Whereas the Government of the Dominion of India and the Government of the Dominion of Pakistan desire to conclude an agreement for the avoidance of double taxation of income chargeable in the two Dominions in accordance with their respective laws;

Now, therefore, the said two Governments do hereby agree as follows:—

Article I.—The taxes which are the subject of the present Agreement are the taxes imposed in the Dominions of India and Pakistan by the Indian Income-tax Act, 1922 (XI of 1922), the Excess Profits Tax Act, 1940 (XV of 1940), and the Business Profits Tax Act, 1947 (XXI of 1947), as adapted in the respective Dominions.

Article II.—Subject to the provisions of Article IX, this Agreement shall continue in force so long as the basis of residence and the scope of the charging provisions in the aforesaid Acts as adapted remain unaltered in both the Dominions, and shall apply to the following assessments made under the said Acts in the two Dominions—

(*i*) Assessments made on or after the 15th day of August 1947 for the assessment year 1947-48 (or for the corresponding chargeable accounting period).

(*ii*) All other assessments made on or after the 1st day of April 1948, excepting excess profits tax assessments for chargeable accounting periods for which provisional assessments have been made before the 1st April 1948.

Article III.—Save under the provisions of section 34 of the Income-tax Act, 1922, and section 15 of the Excess Profits Tax Act, 1940, as adapted neither Dominion shall charge to tax any income of a person whose assessment (whether regular or provisional) including such income had been completed before the 15th day of August, 1947, or 1st day of April, 1948, as the case may be, by an Income-tax Officer or Excess Profits Tax Officer functioning respectively under the Indian Income-tax Act, 1922, or the Excess Profits Tax Act, 1940, or under those Acts as adapted and applied to any Areas or to either Dominion.

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Article IV.—Each Dominion shall make assessment in the ordinary way under its own laws; and, where either Dominion under the operation of its laws charges any income from the sources or categories of transactions specified in column 1 of the Schedule to this Agreement (hereinafter referred to as the Schedule) in excess of the amount calculated according to the percentage specified in columns 2 and 3 thereof, that Dominion shall allow an abatement equal to the lower amount of tax payable on such excess in their Dominion as provided for in Article VI.

Article V.—Where any income accruing or arising without the territories of the Dominions is chargeable to tax in both the Dominions, each Dominion shall allow an abatement equal to one-half of the lower amount of tax payable in either Dominion on such doubly taxed income.

Article VI.—(*a*) For the purposes of the abatement to be allowed under Article IV or V, the tax payable in each Dominion on the excess or the doubly taxed income, as the case may be, shall be such proportion of the tax payable in each Dominion as the excess or the doubly taxed income bears to the total income of the assessee in each Dominion.

(*b*) Where at the time of assessment in one Dominion, the tax payable on the total income in the other Dominion is not known, the first Dominion shall make a demand without allowing the abatement, but shall hold in abeyance for a period of one year (or such longer period as may be allowed by the Income-tax Officer in his discretion) the collection of a portion of the demand equal to the estimated abatement. If the assessee produces a certificate of assessment in the other Dominion within the period of one year or any longer period allowed by the Income-tax Officer, the uncollected portion of the demand will be adjusted against the abatement allowable under this Agreement; if no such certificate is produced, the abatement shall cease to be operative and the outstanding demand shall be collected forthwith.

Article VII.—(*a*) Nothing in this Agreement shall be construed as modifying or interpreting in any manner the provisions of relevant Taxation laws in force in either Dominion.

(*b*) If any question arises as to whether any income falls within any one of the items specified in the Schedule and if so under which item, the question shall be decided without any reference to the treatment of such income in the assessment made by the other Dominion.

Article VIII.—The Schedule to this Agreement may be modified from time to time by agreement between the Central Boards of Revenue of the two Dominions and references to the Schedule in the foregoing Articles shall be read as references to the Schedule, as modified.

Article IX.—Either of the Contracting Parties may, six months before the beginning of any financial year (beginning on the 1st day of April), give to the other Contracting Party, through diplomatic channels, notice of termination, and in such event this Agreement shall cease to have effect in relation to any assessment to income-tax for the financial year beginning with the 1st day of April next following and in relation to assessments to any other tax on the income of the corresponding chargeable accounting period.

THE SCHEDULE

(*See Article IV.*)

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K

Source of income or nature of transaction from which income is derived	Percentage of income which each Dominion is entitled to charge under the Agreement		Remarks
1	2	3	4
1. (*a*) Salaries paid by employers other than Government.	100 per cent. by the Dominion in which the salary is earned by service.	Nil by the other.	
(*b*) Salaries paid by Government.	100 per cent. by the Dominion which pays the salary.	Nil by the other.	
2. (*a*) Interest on Government securities.	100 per cent. by the Dominion where the securities are enfaced for payment of interest and principal.	Nil by the other.	
(*b*) Interest on securities other than Government securities.	100 per cent. by the Dominion in which the investment is used.	Nil by the other.	
3. Income from property.	100 per cent. by the Dominion in which the property is situated.	Nil by the other.	
4. Income from profession or vocation.	100 per cent. by the Dominion in which professional service is rendered.	Nil by the other.	
5. Income from "business" or "other sources":— (*a*) Rent or royalty from lease, renting or hire of property. (*b*) Rent or royalty or license fees or any like consideration from rights conceded in respect of property. (*c*) Rent or royalty or any like consideration from any interest in property.	100 per cent. by the Dominion in which the property is situated.	Nil by the other.	
(*d*) Profits or gains from dealings in property growing out of the ownership or use of or interest in such property.	100 per cent. by the Dominion in which the property is situated.	Nil by the other.	

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Source of income or nature of transaction from which income is derived	Percentage of income which each Dominion is entitled to charge under the Agreement		Remarks
1	2	3	4
(*e*) Rent or royalty for the use of or for the privilege of using patents, copyrights, goodwill, trade marks and other like property.	100 per cent. by the Dominion in which the asset is used.	Nil by the other.	
(*f*) Income derived from any money lent at interest and brought into a Dominion in cash or in kind.	100 per cent. by the Dominion into which the money is brought.	Nil by the other.	
(*g*) Transport—Ships, Air, Road.	100 per cent. by the Dominion in which the traffic originates.	Nil by the other.	
6. Capital gains :—			
(*a*) From sale, exchange or transfer of an immovable capital asset and any rights pertaining thereto.	100 per cent. by the Dominion in which the capital asset is situated.	Nil by the other.	
(*b*) From the sale, exchange or transfer of other assets.	100 per cent. by the Dominion in which the sale, exchange or transfer takes place.	Nil by the other.	
7. (*a*) Goods purchased in one Dominion and sold in the other in the same condition without any manufacturing process so as to change the identity of the goods.	10 per cent. of the profits by the Dominion in which goods are purchased provided there is a branch or regular purchasing agency in the Dominion.	90 per cent. by the other.	If there is no regular purchasing agency, 100 per cent. shall be chargeable by the Dominion in which goods are sold and nil by the other.
(*b*) Goods, merchandise or commodities manufactured in one Dominion and delivered by the manufacturer to a buyer in the same Dominion.	100 per cent. by the Dominion in which the goods are manufactured.	Nil by the other.	
(*c*) Goods, merchandise or commodities manufactured in one Dominion and sold by the manufacturer in the other without any further process and without having a selling establishment or regular agency in the latter Dominion.	75 per cent. by the Dominion in which goods are manufactured.	25 per cent. by the Dominion in which goods are sold.	

Source of income or nature of transaction from which income is derived	Percentage of income which each Dominion is entitled to charge under the Agreement		Remarks
1	2	3	4
(*d*) Goods, merchandise or commodities manufactured in one Dominion and sold by the manufacturer in the other through a selling establishment or a regular agency.	50 per cent. by the Dominion in which goods are manufactured.	50 per cent. by the Dominion in which goods are sold.	
(*e*) Goods, merchandise or commodities manufactured by the assessee partly in one Dominion and partly in the other.	50 per cent. of the profits by each Dominion.	50 per cent. of the profits by each Dominion.	
(*f*) Metal ores, minerals, mineral oils and forest produce extracted in one Dominion and delivered by the extractor to a buyer in the same Dominion.	100 per cent. by the Dominion in which the minerals are extracted.	Nil by the other.	
(*g*) Metal ores, minerals, mineral oils and forest produce extracted in one Dominion and sold in the other without any further manufacturing process and without selling establishment or a regular agency.	75 per cent. of the profits by the Dominion in which minerals are extracted.	25 per cent. by the Dominion in which goods are sold.	
(*h*) As above but sold in the other Dominion through a branch or selling establishment or regular agency.	50 per cent. of the profits by the Dominion in which minerals are extracted.	50 per cent. of the profits by the Dominion in which goods are sold.	
8. Dividends.	By each Dominion in proportion to the profits of the company chargeable by each Dominion under this agreement.	(As in preceding column).	Relief in respect of any excess income-tax deemed to be paid by the share-holder shall be allowed by each Dominion in proportion to the profits of the company chargeable by each under this agreement.
9. Any income derived from a source or category of transactions not mentioned in any of the foregoing items of this Schedule.	100 per cent. by the Dominion in which the income actually accrues or arises.	Nil by the other.	

AGREEMENT FOR RELIEF FROM OR AVOIDANCE OF DOUBLE TAXATION IN INDIA AND CEYLON

(*Notification No. S.R.O.* 456, *dated the 6th February*, 1957)

In exercise of the powers conferred by section 49A of the Indian Income-tax Act, 1922 (XI of 1922), the Central Government hereby directs that all provisions of the annexed agreement for the avoidance of double taxation of income, profits and gains under the said Act which has been concluded between the Government of India and the Government of Ceylon shall be given effect to in the Union of India.

Agreement for relief from or the avoidance of double taxation of income between the Government of India and the Government of Ceylon

Whereas the Government of India and the Government of Ceylon desire to conclude an Agreement for relief from or the avoidance of double taxation of income chargeable in the two countries in accordance with their respective laws;

Now, therefore, the said two Governments do hereby agree as follows:—

Article I.—The taxes which are the subject of the present Agreement are:

(*a*) In India,

the taxes imposed by the Indian Income-tax Act, 1922 (XI of 1922);

(*b*) In Ceylon,

(*i*) the tax imposed by the Ceylon Profits Tax Act, 1948 (No. 5 of 1948),

(*ii*) the tax imposed by the Ceylon Income-tax Ordinance, 1932 (2 of 1932), exclusive of the taxes mentioned in sub-clauses (*i*), (*ii*) and (*iii*) of section 45(4)(*b*) of the said Ordinance.

The present Agreement shall also apply to taxes that may be levied in India under a Profits Tax Act, similar to the Ceylon Profits Tax Act, 1948 (No. 5 of 1948), passed after the date of the present Agreement.

Article II.—The present Agreement shall come into force on the date on which the last of all such things shall have been done in India and Ceylon as are necessary to give the Agreement the force of law in India and Ceylon respectively, and shall thereupon have effect for the assessment year 1950-51 and subsequent assessment years:

Provided that in respect of the two assessment years 1950-51 and 1951-52, instead of the abatement provided for in Articles III, IV and V of this Agreement, double income-tax relief in respect of incomes taxed both in India and Ceylon shall be computed and allowed as if the provisions of (*i*) the Income-tax (Double Taxation Relief) (Ceylon) Rules, 1942, in India and (*ii*) section 46 of the Ceylon Income-tax Ordinance, 1932 (2 of 1932), in Ceylon, apply.

Article III.—Each country shall make assessment in the ordinary way under its own laws; and where either country under the operation of its laws charges any income from the sources or categories of transactions specified in column 1 of the Schedule to this Agreement (hereinafter referred to as the Schedule) in excess of the amount calculated according to the percentages specified in columns II and

III thereof, that country shall allow an abatement equal to the lower of the amounts of tax attributable to such excess in either country. **Div. 3 K**

Article IV.—Where any income accruing or arising outside the two countries is chargeable to tax in both the countries, each country shall allow an abatement equal to one half of the lower amount of tax attributable in either country to such doubly taxed income.

Article V.—Where at the time of assessment in one country the tax attributable in the other country to the excess or the doubly taxed income referred to in Articles III and IV is not known, the first country shall make a demand without allowing any abatement, but shall hold in abeyance for a period of one year (or such longer period as may be allowed by the Income-tax Officer in his discretion) the collection of a portion of the demand equal to an amount estimated by him to be the abatement likely to be due. If the assessee produces a certificate of assessment in the other country within the period of one year or any longer period allowed by the Income-tax Officer, the uncollected portion of the demand shall be adjusted against the abatement allowable under the Agreement; but if no such certificate is produced within the aforesaid period, the abatement shall cease to be operative and the outstanding demand shall be collected forthwith.

Article VI.—An individual of Indian domicile, who is non-resident in Ceylon, shall be entitled to relief from the Ceylon Government equal to the excess of the Ceylon tax paid by him, by deduction or otherwise, on his Ceylon income for any assessment year over the amount which bears the same proportion to the amount which would be payable by him for that year by way of Ceylon tax if he were resident in Ceylon and chargeable in respect of his total income from all sources, wherever arising, as the amount of such Ceylon income bears to the amount of such total income from all sources:

(*a*) in respect of the five assessment years commencing with the assessment year 1950-51, and

(*b*) in respect of any assessment year subsequent to the assessment year 1954-55 provided that during that assessment year the option provided for in the first and second provisos to sub-section (1) of section 17 of the Indian Income-tax Act, 1922, is available to individuals resident in Ceylon in regard to the Indian tax payable by them.

Article VII.—(1) The taxation authorities of the Contracting Governments shall exchange such information (being information which is at their disposal under their respective taxation laws in the normal course of administration) as is necessary for carrying out the provisions of the present Agreement. Any information so exchanged shall be treated as secret and shall not be disclosed to any person other than those concerned with the assessment and collection of the taxes which are the subject of the present Agreement. No information as aforesaid shall be exchanged which would disclose any trade, business, industrial or professional secret or trade process.

(2) As used in this Article, the term "taxation authorities" means, in the case of India, the Commissioners of Income-tax, the Assistant Commissioners of Income-tax or the Income-tax Officers; in the case of Ceylon, the Commissioner of Income-tax or his authorised representative.

Article VIII.—(*a*) Nothing in this Agreement shall be construed as modifying or interpreting in any manner the provisions of the relevant taxation laws in force in either country.

Div. 3 K

(*b*) If any question arises in any country as to whether any income falls within any one of the items specified in the Schedule and if so under which item, the question shall be decided without any reference to the treatment of such income in the assessment made by the other country.

Article IX.—The Schedule to this Agreement may be modified from time to time by agreement between the Governments of the two countries and reference to the Schedule in the foregoing Articles shall be read as references to the Schedule as modified.

Article X.—The present Agreement shall continue in effect indefinitely but either of the Contracting Governments may, on or before the 30th September in any calendar year, give to the other Contracting Government written notice of termination, and in such event the present Agreement shall cease to have effect in relation to assessments for the years of assessment commencing after the said date.

THE SCHEDULE

(*See Article III*)

Source of income or nature of transaction from which income is derived	Percentage of income which each country is entitled to charge under the Agreement		Remarks
I	II	III	IV
1. (*a*) Salaries including pension paid by employers other than Government.	100 per cent by the country in which the salary is earned by service.	Nil by the other.	
(*b*) Salaries including pension paid by Government.	100 per cent by the country which pays the salary.	Nil by the other.	
2. (*a*) Interest on securities issued by the Central Government or a State Government in India.	100 per cent by India.	Nil by Ceylon.	
(*b*) Interest on securities issued by the Government of Ceylon.	100 per cent by Ceylon.	Nil by India.	
(*c*) Interest on securities other than Government securities.	100 per cent by the country in which the local authority or company issuing the securities is situate.	Nil by the other.	
3. Income from house property.	100 per cent by the country in which the property is situated.	Nil by the other.	
4. Income from profession or vocation.	100 per cent by the country in which the services are rendered.	Nil by the other.	

Source of income or nature of transaction from which income is derived	Percentage of income which each country is entitled to charge under the Agreement		Remarks
I	II	III	IV
5. (*a*) Rent or royalty from lease or hire of property.	100 per cent by the country in which the property is situated.	Nil by the other.	"Property" in sub-items (*a*), (*b*), (*c*) and (*e*) herein shall not include house property referred to in item 3 above.
(*b*) Rent or royalty or licence fees or any like consideration arising from rights granted in respect of property.			
(*c*) Rent or royalty or any like consideration arising from any interest in property.			
(*d*) Profits or gains from dealings in property or any interest in property.			
(*e*) Rent or royalty for the use of or for the privilege of using patents, copyrights, goodwill, trade marks and other like property.	100 per cent by the country in which the asset is used.	Nil by the other.	
(*f*) Interest derived from money lent in one country and utilised by the borrower in the other.	100 per cent by the country in which the money is utilised.	Nil by the other.	
(*g*) Transport by Sea or Air.	100 per cent by the country in which the traffic originates.	Nil by the other.	
6. (*a*) Goods manufactured or purchased in one country and sold to a buyer in the other country without having a branch or regular agency in the latter country.	100 per cent by the country in which the goods are manufactured or purchased.	Nil by the other.	
(*b*) Goods manufactured by or on behalf of a person in one country and sold by him in the other country through a branch or regular agency.	50 per cent by each country.	50 per cent by each country.	
(*c*) Goods purchased by a merchant in one country and sold through a branch or regular agency in the other country.	33⅓ per cent by the country in which the goods are purchased.	66⅔ per cent by the other.	

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K

Source of income or nature of transaction from which income is derived	Percentage of income which each country is entitled to charge under the Agreement		Remarks
I	II	III	IV
(*d*) Goods purchased through a buying establishment in one country and sold by a merchant in the other country.	12½ per cent by the country in which the goods are purchased.	87½ per cent by the other.	
(*e*) Metal ores, minerals, mineral oils and forest produce extracted in one country and sold to a purchaser in the other without any further manufacturing process and without a branch or regular agency in the latter country.	100 per cent by the country in which minerals are extracted.	Nil by the other.	
(*f*) As above but sold in the other country through a branch or regular agency in that country.	75 per cent by the country in which minerals are extracted.	25 per cent by the country in which sales are made.	
7. (*a*) Films produced in one country and sold to a purchaser in the other without any further process and without having an agency in the latter country.	100 per cent by the country of production.	Nil by the other.	
(*b*) Films produced in one country and exhibited by the producer in the other country through a regular agency in that country.	50 per cent by each country.	50 per cent by each country.	
(*c*) Films exhibited in one country by distributors (other than producers) in the other country.	75 per cent by the country in which they are exhibited.	25 per cent by the other.	
8. Any income derived from a source or category of transactions not mentioned in any of the foregoing items of the Schedule.	100 per cent by the country in which the income actually accrues or arises.	Nil by the other.	

L

RULES REGARDING RECOGNISED PROVIDENT FUNDS

I

(*Notification No.* 9, *dated the* 15*th March*, 1930)

In exercise of the powers conferred by Chapter IX-A of the Indian Income-tax Act, 1922 (XI of 1922), the Governor General in Council is pleased to make the following rules, the same having been previously published as required by sub-section (1) of section 58-L read with sub-section (4) of section 59 of the said Act :—

1. (1) These rules may be called the Indian Income-tax (Provident Funds Relief) Rules.

(2) They extend to the whole of British India including Berar, and every reference therein to British India shall be construed as including a reference to Berar.

2. In these rules, "section" means a section of the Indian Income-tax Act, 1922 (XI of 1922).

3. (1) Where the employer is not a company as defined in clause (*i*) of sub-section (1) of section 3 of the Companies Act, 1956, the contributions made by employees after the date of recognition of a Provident Fund and the interest on the accumulated balance of such contributions shall be wholly invested either in securities of the nature specified in clause (a), (b), (c), (d) or (e) of section 20 of the Indian Trusts Act, 1882, and payable both in respect of capital and of interest in British India or in a Post Office Savings Bank Account in British India.

(2) Where the employer is a company as defined in clause (*i*) of sub-section (1) of section 3 of the Companies Act, 1956, all moneys contributed to a Provident Fund (whether by the company or by the employees) or accruing by way of interest or otherwise to such fund shall be wholly invested in accordance with the provisions of sub-section (1) of section 418 of the Companies Act, 1956, so, however, that the securities in which the contributions made by employees after the date of recognition of a Provident Fund and the interest on the accumulated balance of such contributions are invested are payable both in respect of capital and of interest in British India.

4. (1) Withdrawals by employees shall not be allowed by the trustees except on special grounds in the following circumstances or circumstances of a similar nature—

(*a*) to pay expenses incurred in connection with the illness of a subscriber or a member of his family ;

(*b*) to pay for the passage over the sea of a subscriber or any member of his family ;

(*c*) to pay expenses in connection with marriages, funerals or ceremonies, which by the religion of the subscriber it is incumbent upon him to perform and in connection with which it is obligatory that expenditure should be incurred ;

Div. 3
L

(*d*) to meet the expenditure on building or purchasing a house or a site for a house provided that such house or site is assigned to the trustees of the fund:

Provided that in the case of an employee whose income under the head "salaries" does not exceed Rs. 3,600 per annum, the Trustees of the Fund may, in their discretion, waive the condition that such house or site shall be assigned to them and instead require as a condition that the employee shall not encumber or alienate the property in any manner.

(*e*) to pay premia on policies of insurance on the life of the subscriber 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 Income-tax Officer.

(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.

(3) (*a*) No such withdrawal shall exceed (1) the pay of the employee for three months, or, in the case of a withdrawal for the purpose specified in clause (*d*) or clause (*e*) of sub-rule (1) six months at the time when the advance is granted, or (2) the total of the accumulation of exempted contributions and exempted interest contained in the balance to the credit of the employee, whichever is less.

(*b*) In the case of withdrawal for the purpose specified in clause (*e*) of sub-rule (1) the restriction imposed by clause (*a*) of sub-rule (3) shall apply to each withdrawal and not to total withdrawals.

(*c*) In the case of withdrawal by an employee falling within the proviso to clause (*b*) of sub-section (1) of section 58C the 'pay' referred to in clause (*a*) of sub-rule (3) shall mean the pay (including increments, if any) which the employee would have received had he not entered *His Majesty's Forces or been taken into or employed in the national service.

(4) (*a*) Save as in clauses (*b*), (*c*), (*d*) and (*e*) a second withdrawal shall not be permitted until the sum first withdrawn has been fully repaid.

(*b*) A withdrawal may be permitted for the purpose specified in clause (*e*) of sub-rule (1) notwithstanding that the sum withdrawn for any other purpose has not been repaid.

(*c*) Subsequent withdrawals for the purpose specified in clause (*e*) of sub-rule (1) may be permitted notwithstanding that the sums previously withdrawn for the same purpose have not been repaid.

(*d*) A withdrawal for any one of the purposes of sub-rule (1) other than that specified in clause (*e*) of that sub-rule may be permitted notwithstanding that the sums withdrawn for the purpose of clause (*e*) of the same sub-rule have not been repaid.

(*e*) A withdrawal for any one of the purposes of sub-rule (1) other than those specified in clauses (*d*) and (*e*) of that sub-rule shall be permitted notwithstanding that the sum withdrawn for the purpose of clause (*d*) of the same sub-rule has not been repaid.

* In sec. 58C of the Indian Income-tax Act, the words "the Armed Forces of the Union" have been substituted for "His Majesty's Forces" by the Adaptation of Laws Order, 1950.

5. (1) Where a withdrawal is allowed for a purpose specified in clause (*d*) or clause (*e*) of sub-rule (1) of rule 4 the amount withdrawn need not be repaid. **Div. 3 L**

(2) Where a withdrawal is allowed for any other purpose the amount withdrawn shall be repaid in not more than twenty-four equal monthly instalments and shall bear interest in accordance with rule 6 and subject to the provisions of sub-rule (4) of rule 4 no further withdrawal shall be permitted until repayment has been effected in full.

6. In respect of withdrawals which are repaid in not more than 12 monthly instalments, an additional instalment of 4 per cent. of the amount withdrawn shall be paid on account of interest; and in respect of withdrawals which are repaid in more than 12 monthly instalments two such instalments of 4 per cent. of the amount withdrawn shall be paid on account of interest:

Provided, however, that at the discretion of the trustees of the Fund, interest may be recovered on the amount withdrawn or the balance thereof outstanding from time to time at 1 per cent. above the rate which is payable for the time being on the balance in the fund at the credit of the member.

7. The employer shall deduct such instalments from the employee's salary, and pay them to the trustees. These deductions shall commence from the second monthly payment made after the withdrawal or in the case of an employee on leave without pay from the second monthly payment made after his return to duty.

8. In case of default of repayment of instalments under rules 6 and 7, the Commissioner of Income-tax 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 and the Income-tax Officer shall assess the employee accordingly.

9. Notwithstanding anything contained in rules 4 to 8, it shall be open to the trustees of a recognised 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.

9A. Where the accounts of a recognised provident fund are kept outside British 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 British India:

Provided that the Income-tax Officer may in any year appoint a date later than the 15th June as the date by which the certified copies shall be supplied.

10. (1) An application for recognition shall be made by the employers maintaining the 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 Commissioner, and

(*b*) the rules of the fund:

Div. 3 L

Provided that if the original of the trust deed cannot conveniently be produced, it shall be open to the Commissioner of Income-tax to accept in lieu of the original a copy certified either by a Magistrate or in any manner specified in rule 7 of the Indian Companies Rules, 1914, in which case an additional copy shall be furnished for retention by the Commissioner.

(2) The application shall be submitted through the Income-tax Officer of the area in which the accounts of the funds are kept, or, if the accounts are kept outside India, through the Income-tax Officer of the area in which the local headquarters of the employer are situate.

(3) The application shall contain 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 British India ;

(*ii*) in Indian States ;

(*iii*) outside India.

(*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.

(4) A verification in the following form shall be annexed to the application :—

Form of verification

We/I, the trustee(s) of the above-named 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.

11. 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 exempted contributions of the employee and employer to the recognised provident fund maintained by the company shall not exceed Rs. 250 in any month.

12. If an employee assigns or creates a charge upon his beneficial interest in a recognised provident fund, the Income-tax 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 Income-tax Officer and shall be assessed accordingly.

13. If the Commissioner withdraws recognition from a recognised 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 be paid to him free

of income-tax and super-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 income-tax and super-tax as if the fund had never been recognised.

14. Before withdrawing recognition, the Commissioner of Income-tax shall give an opportunity to the employer and the trustees of the fund to show cause why recognition should not be withdrawn.

15. (1) For the purpose of clause (*a*) of section 58D 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.

(2) 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 section 58D to the individual account of any one employee shall not exceed the amount of the contribution of the employee in that year.

II

(*Notification No.* 10, *dated the* 15*th March*, 1930)

In pursuance of sub-section (2) of section 58F of the Indian Income-tax Act, 1922 (XI of 1922), the Governor General in Council is pleased to fix six per cent. as the rate referred to in the said sub-section.

This notification shall apply to the whole of British India, including Berar.

III

(*Notification No.* 12, *dated the* 15*th March*, 1930)

In exercise of the powers conferred by Chapter IX-A and by section 59 of the Indian Income-tax Act, 1922 (XI of 1922), the Central Board of Revenue is pleased to make the following rules, the same having been previously published as required by sub-section (1) of section 58L read with sub-section (4) of section 59 of the said Act :—

1. (1) These rules may be called the Indian Income-tax (Provident Funds Relief) (Central Board of Revenue) Rules.

(2) They extend to the whole of India except the State of Jammu and Kashmir.

2. In these rules "section" means a section of the Indian Income-tax Act, 1922 (XI of 1922).

3. 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.

Div. 3 L

4. An appeal under sub-section (4) of section 58B shall be in the following form and shall be verified in the manner indicated therein :

Form of appeal against refusal to recognise or withdrawal of recognition from a Provident Fund

To

The Central Board of Revenue.

The petition of employer(s) carrying on business, profession or vocation at .

Your petitioner(s) *applied to* (*obtained sanction from*) the Commissioner of Income-tax under section 58B of the Indian Income-tax Act, 1922, for the recognition of the provident fund maintained by him (them) for the benefit of his (their) employees. The Commissioner of Income-tax has *refused recognition* (*withdrawn recognition*) for the reasons stated in his order dated of which a copy is attached.

For the reasons set out below your petitioner(s) submit(s) that the fund should *be* (*continue to be*) recognised, and pray(s) that the Central Board of Revenue may be pleased to accord recognition/continue the recognition.

GROUNDS OF APPEAL

We/I , the petitioner(s) named in the above petition do declare that what is stated therein is true to the best of our/my information and belief.

Signature

Address of the appellant

Date

N.B.—Unnecessary words or letters should be scored out.

5. The accounts of a recognised provident fund shall be prepared at intervals of not more than twelve months.

6. An account shall be maintained for each subscriber to the fund and it shall include the particulars shown in the following form :—

Name..... Date of joining fund..... .. ..

Account closed
Date
Paid to employee
Lapsed to employer or to fund
Recovery by employer

Year and month.	Salary.	Contributions				Total interest on column 6 *	Exempt		Not exempt		Additions to total income (columns 4, 5 and 7)	Remarks.
		Contribution by employee.	Regular contributions by employer.	Employer's contributions of a contingent nature.	Total of columns 3, 4 and 5		Contributions not exceeding 4th of salary for the year or Rs 6,000 whichever is less.	Interest on sums in column 6 at % but not exceeding 4rd of the salary for the year	Contributions column 6 minus column 8	Interest column 7 minus column 9		
1	2	3	4	5	6	7	8	9	10	11	12	13
Balance brought forward												
April												
May												
March												
Total												
Adjustment on account of temporary withdrawals account (columns 8 and 9 only)												
Adjustment on account of non-repayable withdrawals account (columns 10 and 11)												
Total carried over												

NON-REPAYABLE WITHDRAWALS ACCOUNT

	Amount
April	
May	
June	
July	
March	
Total	

TEMPORARY WITHDRAWALS ACCOUNT

	Advance	Repayment	Interest
Balance brought forward			
April			
May			
June			
July			
March			
Balance carried over			

* If desired column 7 may be divided into sub-columns to show separately the interest on column 3 and columns 4 and 5 respectively.

Div. 3 L

7. An abstract for the financial year or other applicable accounting period of the individual account of each employee participating in a recognised provident fund in respect of whom a return is required to be furnished under rule 16 of Indian Income-tax Rules, 1922, shall be furnished by the trustees to the Income-tax Officer of the area in which the employer conducts his business, profession or vocation, or to such other Income-tax Officer as the Commissioner may, in each case, direct, not later than the fifteenth day of June in each year or any other subsequent date fixed by the Income-tax Officer. It shall be in the form prescribed in rule 6, 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 recognised provident fund who were allowed withdrawals under rule 4 of the Indian Income-tax (Provident Funds Relief) Rules or who come within the purview of rule 11 of these rules.

8. The account to be made under the provisions of sub-section (1) of section 58J 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.

M

RULES AND ORDERS RELATING TO APPELLATE TRIBUNAL

APPELLATE TRIBUNAL RULES, 1946*

(*Income-tax Appellate Tribunal Notification, dated the* 31*st October*, 1946)

In pursuance of sub-section (8) of section 5A of the Indian Income-tax Act, 1922 (XI of 1922), and in supersession of the existing rules made thereunder, the Appellate Tribunal is pleased to make the following rules, namely :—

1. (1) These rules may be called the Appellate Tribunal Rules, 1946.

(2) They shall come into force on the 25th November, 1946.

2. In these rules, unless there is anything repugnant in the subject or context,—

(*i*) "Act" means the Indian Income-tax Act, 1922 (XI of 1922);

(*ii*) "authorised representative" means—

(*a*) in relation to an assessee, a person duly authorised by the assessee under section 61 to attend before the Tribunal; and

(*b*) in relation to an Income-tax authority who is a party to any proceeding before the Tribunal, a person duly appointed by the Central Government by notification in the official Gazette as authorised representative to appear, plead and act for such authority in any such proceeding, and any other person acting on behalf of the person so appointed;

(*iii*) "Bench" means a Bench of the Tribunal constituted under sub-section (5) of section 5A;

(*iv*) "member" means a member of the Tribunal;

(*v*) "prescribed form" means a form prescribed in the rules made by the Central Board of Revenue under section 59;

(*vi*) "President" means the President of the Tribunal;

(*vii*) "Registrar" means the person who is for the time being discharging the functions of the Registrar of the Tribunal;

(*viii*) "section" means a section of the Act;

(*ix*) "Tribunal" means the Appellate Tribunal constituted by the Central Government under section 5A, and includes, where the context so requires, a Bench exercising and discharging the powers and functions of the Tribunal.

3. A Bench shall hold its sittings at its headquarters or such other place as it may consider convenient.

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* These Rules were applied *mutatis mutandis* to appeals and applications arising out of the State of Hyderabad, the State of Travancore-Cochin, the State of Saurashtra, and the territory formerly comprising the State of Patiala, before the Appellate Tribunal under sub-section (1) of section 13 of the Finance Act, 1950, by Notifications No. 2 A.T.S./51 dated the 20th March 1951, No. 3 A.T.S./51 dated the 20th March 1951, No. 4 A.T.S./51 dated the 20th March 1951 and No. 5 A.T.S./51 dated the 3rd December 1951, respectively.

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4. (1) A Bench shall hear and determine such appeals and applications made under the Act as the President may by general or special order direct.

(2) Where at a headquarters other than Bombay there are two Benches of the Tribunal, the seniormost member may transfer an appeal or an application from one of such Benches to the other.

5. *Deleted.*

6. The language of the Tribunal shall be English.

7. (1) A memorandum of appeal to the Tribunal shall be presented by the Appellant in person or by an agent to the Registrar at the headquarters of the Tribunal at Bombay, or to an officer authorised in this behalf by the Registrar, or sent by registered post addressed to the Registrar or to such officer.

(2) A memorandum of appeal sent by post under sub-rule (1) shall be deemed to have been presented to the Registrar or to the officer authorised by the Registrar, on the day on which it is received in the office of the Tribunal at Bombay or, as the case may be, in the office of such officer.

8. The Registrar or, as the case may be, the authorised officer shall endorse on every memorandum of appeal the date on which it is presented or deemed to have been presented under rule 7 and shall sign the endorsement.

9. Every memorandum of appeal shall be written in English, and shall set forth, concisely and under distinct heads, the grounds of appeal without any argument or narrative; and such grounds shall be numbered consecutively.

10. (1) Every memorandum of appeal shall be in triplicate and shall be accompanied by two copies (at least one of which shall be a certified copy) of the order appealed against and two copies of the order of the Income-tax Officer.

(2) The Tribunal may in its discretion accept a memorandum of appeal which is not accompanied by all or any of the documents referred to in sub-rule (1).

11. Where a fact which cannot be borne out by, or is contrary to, the record is alleged, it shall be stated clearly and concisely and supported by a duly sworn affidavit.

12. The appellant shall not, except by leave of the Tribunal, urge or be heard in support of any ground not set forth in the memorandum of appeal; but the Tribunal, in deciding the appeal, shall not be confined to the grounds set forth in the memorandum of appeal or taken by leave of the Tribunal under this rule:

Provided that the Tribunal shall not rest its decision on any other ground unless the party who may be affected thereby has had a sufficient opportunity of being heard on that ground.

13. The Tribunal may reject a memorandum of appeal, if it is not in the prescribed form or return it for being amended within such time as it may allow. On re-presentation after such amendment the memorandum shall be signed and dated by an officer authorised in this behalf by the Tribunal.

14. In an appeal by an assessee under sub-section (1) of section 33 or sub-section 3 of section 33B, the Income-tax Officer concerned shall be made a respondent to the appeal.

15. In an appeal by an Income-tax Officer under sub-section (2) of section 33, the appellant before the Appellate Assistant Commissioner shall be made a respondent to the appeal. **Div. 3 M**

16. In an appeal under sub-section (2) of section 33, a certified copy of the order of the Commissioner directing that an appeal be preferred, shall be appended to the memorandum of appeal.

17. Where a memorandum of appeal is signed by an authorised representative, the assessee shall append to the memorandum a document authorising the representative to appear for him and if the representative is a relative of the assessee, the document shall state what his relationship is with the assessee or if he is a person regularly employed by the assessee, the document shall state the capacity in which he is at the time employed :

Provided that such a document need not be appended in the case of an appeal under sub-section (2) of section 33 of the Act.

18. An authorised representative appearing for an assessee at the hearing of an appeal shall, unless the document referred to in rule 17 has been appended, file such a document before the commencement of the hearing.

19. (1) The Tribunal may, on its own motion, or on an application made by the appellant, direct the preparation of a paper book by and at the cost of the appellant.

(2) On such a direction being given the Registrar or Assistant Registrar, as the case may be, shall call upon the parties to state what papers and documents they desire to be included in the paper book.

(3) After hearing the parties and taking the directions of the Bench, if necessary, the Registrar or Assistant Registrar, as the case may be, shall settle the list of papers to be included in the paper book and call upon the appellant to furnish four copies of the paper book within a time to be fixed and the appellant shall comply with such directions.

20. (1) The Tribunal shall notify to the parties the date and place of hearing of the appeal, and send a copy of the memorandum of appeal to the respondent either before or with such notice.

(2) The issue of the notice referred to in sub-rule (1) shall not by itself be deemed to mean that the appeal has been admitted.

21. The date and place of hearing of the appeal shall be fixed with reference to the current business of the Tribunal and the time necessary for the service of the notice of appeal, so as to allow the parties sufficient time to appear and be heard in support of or against the appeal.

22. In an appeal under sub-section (1) of section 33, in fixing the date for the respondent to appear and answer to the appeal, a reasonable time shall be allowed for the necessary communication with the Commissioner through the proper channel and for the issue of instructions to an authorised representative to appear and answer on behalf of the respondent.

23. On the day fixed, or any other day to which the hearing may be adjourned, the appellant shall be heard in support of the appeal. The Tribunal shall then, if it does not dismiss the appeal at once, hear the respondent against the appeal, and in such case the appellant shall be entitled to reply.

24. Where on the day fixed for hearing or any other day to which the hearing may be adjourned, the appellant does not appear when the appeal is called on for hearing, the Tribunal may, in its discretion, either dismiss the appeal for default or may hear it *ex parte*.

Div. 3 M

25. Where on the day fixed for hearing or any other day to which the hearing may be adjourned, the appellant appears and the respondent does not appear when the appeal is called on for hearing, the Tribunal may hear the appeal *ex parte*.

Explanation.—In rules 24 and 25 "appear" means appear in person or through an authorised representative.

26. Where an assessee whether he be the appellant or the respondent to an appeal dies or is adjudicated insolvent or in the case of a company is being wound up, the appeal shall not abate and may, if the assessee was the appellant, be continued by, and if he was the respondent be continued against, the executor, administrator or other legal representative of the assessee or by or against the receiver or liquidator as the case may be.

27. The respondent, though he may not have appealed, may support the order of the Appellate Assistant Commissioner on any of the grounds decided against him.

28. Where the Tribunal is of opinion that the case should be remanded, it may remand it to the Appellate Assistant Commissioner or the Income-tax Officer, with such directions as the Tribunal may think fit.

29. The parties to the appeal shall not be entitled to produce additional evidence either oral or documentary before the Tribunal, but if the Tribunal requires any document to be produced or any witness to be examined or any affidavit to be filed to enable it to pass orders or for any other substantial cause, or if the Income-tax Officer has decided the case without giving a sufficient opportunity to the assessee to adduce evidence either on points specified by him or not specified by him, the Tribunal may allow such document to be produced or witness to be examined or affidavit to be filed or may allow such evidence to be adduced.

30. Such document may be produced or such witness examined or such evidence adduced either before the Tribunal or before the Appellate Assistant Commissioner or before the Income-tax Officer as the Tribunal may direct.

31. If the document is directed to be produced or witness examined or evidence adduced before the Appellate Assistant Commissioner or the Income-tax Officer, he shall comply with the direction of the Tribunal and after compliance send the document, the record of the deposition of the witness or the record of the evidence adduced, to the Tribunal.

32. The Tribunal may, on such terms as it thinks fit, and at any stage adjourn the hearing of the appeal.

32A. The proceedings before the Tribunal shall not be open to the public. No person except the assessee, his employee, his authorised representative including counsel engaged by him or by the authorised representative shall, without the permission of the Tribunal, remain present when an assessee's case is being heard by the Tribunal:

Provided that the provisions of this rule shall not apply to the officers of the Income-tax Department and counsel engaged by it.

33. (1) The order of the Bench shall be in writing and shall be signed and dated by the members constituting it.

(2) Where a case is referred under sub-section (7) of section 5A, the order of the member or members to whom it is referred shall be signed and dated by him or them as the case may be.

34. The Tribunal shall, after the order is signed, cause it to be communicated to the assessee and to the Commissioner. **Div. 3 M**

35. An application for reference under sub-section (1) of section 66 shall be in triplicate and shall be accompanied by a list of documents (particulars of which shall be stated) which in the opinion of the applicant should form part of the case and a translation in English of any such document, where necessary.

36. Rules 7, 8, 13, 20, 21, 22, 23, 26 and 33 shall apply, *mutatis mutandis*, to an application under sub-section (1) of section 66.

37. Where the application is by an assessee, the Commissioner to whom the Income-tax Officer is subordinate shall be made a respondent.

38. Where the application is by the Commissioner, the assessee shall be made a respondent.

39. The Bench which heard the appeal giving rise to the application shall hear it unless the President directs otherwise.

40. On receipt of the notice of the date of hearing of the application, a respondent shall, at least 7 days before the date of hearing, submit a reply in writing to the application.

41. The reply to the application shall specifically admit or deny whether the question of law formulated by the applicant arises out of the order under sub-section (4) of section 33. If the question formulated by the applicant is defective, the reply shall state in what particular the question is defective and what is the exact question of law which arises out of the said order. The reply shall be accompanied by two copies thereof, a list of documents (the particulars of which shall be stated) which in the opinion of the respondent should form part of the case and a translation in English of any such document, where necessary.

42. On the day fixed for the hearing of the application or any other day to which the hearing may have been adjourned, after hearing the parties, the Tribunal shall dismiss the application if it is of opinion that no question of law arises out of the order passed under sub-section (4) of section 33.

43. Where the Tribunal is of opinion that a question of law arises out of the order under sub-section (4) of section 33, it shall draw up a statement of the case.

44. The Tribunal shall append to the statement documents which in its opinion should form part of the case.

45. The order on the application for reference shall be communicated to the assessee and the Commissioner.

46. Where a requisition is received from the High Court under sub-section (2) of section 66, or where the case is referred back under sub-section (4) of the said section, it shall be dealt with by the Bench referred to in rule 39 unless otherwise directed by the President.

47. When a copy of the judgment of the High Court is received by the Tribunal under sub-section (5) of section 66, it shall be sent to the Bench referred to in rule 39 for such orders as may be necessary unless the President directs otherwise.

48. (1) Copying fees shall be charged as follows:—

(*a*) For the first 200 words or less .. .. 12 annas.

(*b*) For every additional 100 words or fraction thereof .. 6 annas.

(2) Copying fees shall be recovered in advance in cash.

(3) Where a party applies for immediate delivery of a copy of evidence taken down by a stenographer, the fees chargeable shall be 50 per cent. more than in sub-rule (1); the extra fees charged shall be paid to the stenographer.

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(4) Except in cases where copies are supplied free under the rules or instructions for the time being in force and in cases covered by sub-rule (3), the scale of fees to be charged for the supply of copies urgently shall be twice those prescribed by sub-rule (1).

49. (1) Fees for inspecting records and registers of the Tribunal shall be charged as follows :—

(*a*) For the first hour or part thereof .. .. .. 12 annas.

(*b*) For every additional hour or part thereof .. .. 8 annas.

(2) Fees for inspection shall be recovered in advance in cash.

(3) No fees shall be charged for inspecting records of a pending appeal or application by a party thereto.

STANDING ORDER NO. 1 OF 1957

In pursuance of rule 4 of the Income-tax Appellate Tribunal Rules and in supersession of all existing orders on the subject, I hereby direct, subject to any special order, that all appeals and applications under the Indian Income-tax Act, 1922, the Excess Profits Tax Act, 1940, and the Business Profits Tax Act of 1947, from the Districts and States specified in column 2 shall, with effect from the 1st October, 1957, be heard and determined by the Benches specified in column 1 :—

1	2
Bombay Benches	Bombay, Madhya Pradesh (*excluding* Rewa Dn.), Districts of Jaisalmer, Jodhpur, Pali, Chittorgarh, Dungarpur, Bhilwara, Udaipur, Sirohi, Jalore, Barmer, Kotah and Jhalwar of Rajasthan State. Districts of Belgaum, Dharwar and North Kanara of Mysore State.
Allahabad Bench	Uttar Pradesh (*excluding* Meerut & Kumaon Divn.), Rewa Division of Madhya Pradesh and Bihar except Districts of Singhbhum, Dhanbad, Santhal Parganas, Bhagalpur and Ranchi.
Madras Benches	Madras and Kerala.
Calcutta Bench	West Bengal, Assam, Tripura, Manipur, Orissa and Districts of Singhbhum, Dhanbad, Santhal Parganas, Bhagalpur and Ranchi of Bihar.
Delhi Bench	Delhi, Punjab, Himachal Pradesh, Meerut and Kumaon Division of U.P., Rajasthan *excluding* Districts shown against Bombay Benches, Jammu and Kashmir.
Hyderabad Bench	Andhra Pradesh, Mysore *excluding* the Districts of Dharwar, Belgaum and North Kanara.

2. All pending appeals and applications, except those in which orders have been reserved after hearing, will be governed by the above order. Appeals and applications already fixed for hearing will be heard by the Bench before which they are so fixed.

3. I further direct with reference to rules 39 and 46 of the Appellate Tribunal Rules that reference applications under section 66(1) and matters arising under sections 66(2), 66(3), 66(4), 66(5) and 66A(5) of the Income-tax Act arising out of orders passed by the Bench from which the jurisdiction is transferred shall be heard and decided by the Bench to whom the jurisdiction is now transferred.

Explanation.—By this order, the ordinary jurisdiction of a Bench will be determined not by the place of business or residence of the assessee but by the location of the office of the assessing Officer.

P. C. MALHOTRA
President

September 25, 1957

ORDER OF REGISTRAR, APPELLATE TRIBUNAL

ORDER No. 2 OF 1956

In pursuance of rule 7 of the Appellate Tribunal Rules, 1946, and in supersession of all previous orders on the subject, I hereby authorise the Assistant Registrars of the Appellate Tribunal at Bombay, Allahabad, Calcutta, Delhi, Madras, Patna and Hyderabad (Dn.) for the purpose of that rule:

Provided that, if at the time of presentation of appeal, the Assistant Registrar is absent from office, the appeal or application may be presented to the Superintendent of the office at Bombay or the head clerk at Allahabad, Calcutta, Delhi, Madras, Patna and Hyderabad (Dn.) in the office, during office hours:

Provided further that, if the appellant or applicant apprehends that it is the last day of limitation for the presentation of his appeal or application, he may present it to the Assistant Registrars at Bombay, Allahabad, Patna, Delhi, Calcutta, Madras and Hyderabad (Dn.) at their residence or any other place wherever they may be, or to a Member of the Tribunal at his residence or wherever he may be.

SUGGESTIONS FOR GUIDANCE OF ASSESSEES

The following suggestions are made for the guidance of the assessees and their representatives:—

1. In all communications addressed to the Tribunal by the parties with regard to appeals or applications the number thereof, or, if the number is not known, the date of filing thereof, should invariably be given. Failure to furnish this information will cause needless delay in answering correspondence.

2. An application for adjournment of the hearing should be made at the earliest possible time. If it could be presented personally, it should be done so. If it cannot be presented personally, a stamped envelope with the address of the assessee or his representative should, as far as possible, accompany the application. If a reply is required telegraphically, the necessary postage stamps should accompany the application. If a telegram is sent asking for adjournment, arrangement should be made for a reply paid telegram. The suggestion made in this paragraph is intended not so much as a measure of economy as a measure for greater efficiency. The Tribunal is not bound to reply to applications for adjournment. Replies will however be given as far as possible. Unless the assessee hears that his application for adjournment has been granted, he should remain present at the hearing of the appeal or application as the case may be.

3. Whenever an appeal or application is filed which is connected with an appeal or application relating to the same party filed earlier, reference thereto should invariably be given with the latter appeal or application so that the various connected appeals or applications could be linked up together. This will be for the convenience of the parties themselves.

Div. 3 M If any practitioner wishes that appeals and applications relating to different assessees in which he is engaged should be taken up on the same or consecutive days, he should intimate to the Tribunal the particulars of those appeals and applications including the dates of filing thereof, well in advance.

4. An application for an early hearing of an appeal should invariably state why the assessee wants that his appeal should be given preference over the appeals made by other assessees. The application should state whether or not the tax has been paid and, if so, to what extent.

5. An application for sending for the case of another assessee should also be made at the earliest possible opportunity. Cases will not ordinarily be sent for, for the purpose of making an assessment on the same basis as in other cases.

6. Attention is invited to rule 11 of the Appellate Tribunal Rules. That rule provides that where a fact which cannot be borne out by or is contrary to record is alleged it should be stated clearly and concisely and should be supported by a duly sworn affidavit. Complaints are at times made before the Tribunal that certain statements attributed to the assessees or their representatives were in fact not made. Unless rule 11 is complied with, it is not ordinarily possible to go outside the record. An application for time for filing an affidavit as required by rule 11 at the time of hearing of the appeal will not ordinarily be granted. The object of this suggestion is to save time in hearing and deciding appeals.

7. If an appeal is barred by time, or if there are reasons for believing that it may be barred by time, an application for condoning the delay should be made well in advance before the hearing of the appeal. Such an application should, if necessary, be supported by documentary evidence, as for example, a medical certificate or an affidavit.

8. Three copies (typed if possible) of the statements made by the assessee or the witnesses or of documents relied upon or of extract of accounts, where necessary, should be produced at the time of the hearing of the appeal. As far as possible all such documents and papers should be in English or translated in English. This suggestion has been accepted by many solicitors and auditors appearing before the Tribunal. This suggestion is intended to facilitate the hearing of the appeal. Extract of accounts should, if possible, be certified by the assessee's representative or by any other reliable person and be in English.

9. Books of account should be kept handy at the time of hearing of the appeal. If books of account of the year preceding or succeeding the year of account are relevant, they should also be kept handy.

10. Assessees should, as far as possible, be present at the hearing of the appeal. This suggestion is made entirely in the interest of the assessees.

REGISTRAR,

27th September, 1951. *Appellate Tribunal.*

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RULES RELATING TO REFERENCES AND APPLICATIONS TO HIGH COURTS

BOMBAY HIGH COURT RULES

CHAPTER XXXIX

Rules relating to references and applications under section 66 of the Indian Income-tax Act, 1922

933. References to be sent to the Prothonotary and Senior Master.—All references under section 66 of the Indian Income-tax Act, 1922, shall be forwarded to the Prothonotary and Senior Master, and shall be dealt with on the Original Side.

934. Notice of reference to party at whose instance reference is made.—When the Appellate Tribunal refers a case to the High Court it shall give notice of that fact to the party at whose instance the reference has been made, and shall call upon him to take such steps in the office of the Prothonotary and Senior Master as may be necessary for bringing the reference to a final conclusion.

935. Fixing a date and issuing notice to other side.—The party at whose instance a reference has been made shall file the statement of the case in the office of the Prothonotary and Senior Master and shall forthwith take steps to bring the reference to a final conclusion. Such party shall apply to the Prothonotary and Senior Master to fix a date for the hearing of the reference and shall take out and serve a notice of the date so fixed on the opposite party. If such party fails to take such steps for two months from the receipt of the reference in the High Court, the Prothonotary and Senior Master may set down the reference on board for such orders as the Court may deem necessary.

936. Printing of Paper Books.—The party at whose instance a reference has been made shall have the statement of the case printed, and shall file two copies of such prints in the office of the Prothonotary and Senior Master within two months from the date of the filing of the reference in the High Court.

937. Failure to file Paper Books.—In the event of non-compliance with the last preceding rule, the Prothonotary and Senior Master may set down the reference on board for such orders as the Court may deem necessary.

938. Applications under section 66(2) and section 66(3).—An application under sub-section (2) or (3) of section 66 of the Act shall be presented to the Prothonotary and Senior Master. Such application shall be by petition. There shall be annexed to such petition copies of the order and judgment, if any, of the Appellate Tribunal, and also of the relevant documents on which the applicant wants to rely in support of his application.

939. Placing of application before the Court.—The Prothonotary and Senior Master shall place such application before the Court on a day appointed by the Chief Justice. The Court may either reject the application summarily, or order a rule to issue to show cause why the order applied for should not be made. The rule shall be made returnable on such date as the Court may direct.

Div. 3 N

940. Time for furnishing copies of application and service of rule *nisi*.—On a rule *nisi* being issued, the applicant shall furnish to the office of the Prothonotary and Senior Master two type-written or printed copies of such application with all its annextures at least one week before the day fixed for the hearing of the rule. The rule *nisi* together with the copy of the application shall be served on the opposite party, *i.e.*, on the assessee or the Income-tax Commissioner as the case may be, at least fourteen days before the returnable date of the rule.

941. Answer to rule *nisi*.—Answer to the rule *nisi* shall be made on affidavit and the same shall be filed at least four days before the returnable date of the rule *nisi*. Two copies of such affidavit shall be furnished to the office of the Prothonotary and Senior Master.

942. A copy of the Court's Order and Judgment to be sent to the Appellate Tribunal.—Where the rule *nisi* is made absolute, the Prothonotary and Senior Master shall send a copy of the Court's Order and Judgment, if any, to the Appellate Tribunal.

943. Applications and references to be heard by a Bench.—.....All references and applications under section 66 of the Act shall be heard by a Bench of at least two Judges appointed by the Chief Justice.

944. Costs of reference or application.—When the Court at the hearing of a reference or an application allows costs, such costs shall be taxed on the Original Side scale, unless the Court gives any special directions in the matter.

CALCUTTA HIGH COURT RULES

Notification dated 26th June 1942 *by the High Court, Calcutta, published in the Calcutta Gazette, dated* 2-7-1942

1. All references under section 66 of the Indian Income-tax Act, 1922, shall be presented to the Registrar, Original Side, and shall be dealt with on the Original Side.

2. The statement of the case shall be in the form of numbered paragraphs, setting out all the relevant facts and proceedings in chronological order and then the question of law arising therefrom. Paper books in respect of each reference made by the Commissioner of Income-tax (hereinafter in these rules referred to as the Commissioner) shall be prepared by or on behalf of the Commissioner and those in respect of references made by the Appellate Tribunal shall be prepared by or on behalf of the Appellate Tribunal. Six copies of the paper book shall be filed within one month (or within such further period as the Registrar shall allow) of the presentation of the reference. Four copies of the book shall be supplied to the assessee free of charge, and in respect of references made by the Appellate Tribunal, eight copies of the paper book shall be supplied to the Commissioner free of charge by the authority responsible for the preparation of paper book. Further copies shall be supplied upon payment of their cost.

3. Upon the paper books being filed the Registrar shall lay the matter before the Chief Justice who shall appoint a Bench under section 66A of the said Act to hear the reference and shall fix a day for hearing.

4. Notice of the day fixed for hearing shall be given by the Registrar to the Commissioner or to the Advocate or Attorney acting for him, as the case may be. The Registrar shall cause such notice to be served on all parties to the reference. Div. 3 N

5. Every application made under section 66(3) or (3A) of the said Act as it stood before its amendment by Act VII of 1939, read with section 14 of Act XL of 1940, or under sub-section (2) or (3) of the said section 66 as amended by Act VII of 1939, shall be presented to the Registrar, Original Side, who shall submit the same to the Chief Justice or to the Bench appointed by the general or special order of the Chief Justice, for the purpose of fixing a date for hearing. The Registrar shall intimate to the applicant or to the Advocate or Attorney acting for him, as the case may be, the date so fixed and the Bench before which the same shall be made.

6. Whenever a Rule is issued by the High Court, on an application under section 66(3) or (3A) of the Indian Income-tax Act, as it stood before the amendment by Act VII of 1939, read with section 14 of Act XL of 1940, or under sub-section (2) or (3) of the said section 66 as amended by Act VII of 1939, the Rule, together with a copy of the petition or affidavits in respect of such application, shall be served upon the Commissioner. The Commissioner shall be at liberty to show cause by means of a letter addressed to the Registrar, Original Side.

7. Advocates not entitled to practise on the Original Side, and Attorneys shall be entitled to appear and act in all matters governed by these rules.

8. Costs in all income-tax matters are within the discretion of the Court, and will be paid by such party or parties other than the Appellate Tribunal as the Court may order. Unless otherwise ordered, they will be taxed according to the scale on the original side. Costs of and incidental to reference will be taxed in the same manner as of a hearing of an appeal from a decree of the Original Side. Costs of and incidental to an application for a Rule shall ordinarily be taxed as of a motion on the Original Side and when such application has resulted in a reference being directed, the costs of the application shall be included in the costs of such reference. Advocates who appear and plead, whether instructed by another Advocate or an Attorney, shall be allowed the same fees as are allowed to counsel under rules 32 and 33 of Chapter XXXVI of the Rules of the Original Side (including fees to second and third advocates if so allowed by the Court). If such costs are ordered to be paid by the Commissioner to the assessee on a reference made under sub-section (2) or (3) of section 66 of the said Act, as it stood before its amendment by Act VII of 1939, read with section 14 of Act XL of 1940 or on a reference made under sub-section (1) or (2) or in compliance with an order under sub-section (3) of the said section 66, as amended by Act VII of 1939, the fee of one hundred rupees paid by the assessee under the said sub-section (2) of section 66, as it stood before its amendment, or under sub-section (1) of the said section, as amended, shall be added to the costs ordered to be paid by the Commissioner.

The costs of an Advocate or Attorney appearing and acting or of an Advocate both pleading and acting, shall be taxed as far as possible according to the scale on the Original Side. In cases where no detailed bill is filed, or in which the taxing officer finds such scale difficult to apply, he may allow such a lump sum in lieu of taxed costs as may appear to him to be fair and reasonable.

Div. 3 N An Advocate both pleading and acting shall be entitled to fees for appearing as such Advocate only, and not in addition to any fees that would have been payable to him for acting and instructing another Advocate.

MADRAS HIGH COURT RULES

The following rules shall regulate the procedure to be adopted in regard to references and applications to the High Court under section 66 of the Act, as amended by Part II of the Indian Income-tax (Amendment) Act, 1939, read with the Government of India Notification No. 2, Finance (Central Revenues) Income-tax, dated 18th January, 1941 :—

1. References made under section 66 of the Act by the Appellate Tribunal stating a case for the opinion of the High Court shall, on receipt thereof by the Registrar, be numbered as Referred Cases but no Court-fee shall be levied on such references by the Registrar.

2. The Registrar, Appellate Tribunal, shall together with the letter of reference submit two copies of the said letter and of any records necessary for the consideration of the reference.

3. (*a*) On the said reference being numbered as a Referred Case, the Registrar shall fix a day for the hearing of the case and intimation thereof shall be given to the Appellate Tribunal and to the Commissioner of Income-tax.

(*b*) Within a fortnight of the receipt of the intimation referred to in sub-clause (*a*) above the Commissioner of Income-tax shall file a memorandum giving particulars for service on the parties concerned in Form I of Appendix IV of Appellate Side Rules with Court-fee labels attached for the fees prescribed for service of notice on them.

4. (*a*) Any application under section 66(2) of the Act requiring the Appellate Tribunal to state a case for the opinion of the High Court shall be by a Civil Miscellaneous Petition. The petition shall be verified and shall contain in precise language a statement of the point of law upon which the case is to be stated and shall set out concisely the material facts and the proceedings which have taken place before the Income-tax Officers and the Appellate Tribunal. Copies of the orders of the Income-tax Officer, of the Appellate Assistant Commissioner of Income-tax and of the Appellate Tribunal under section 33(4) of the Act out of which the question of law arose and under section 66 of the Act refusing to state a case shall be filed with the petition.

(*b*) An application under section 66(3) of the Act shall also be by a Civil Miscellaneous Petition which shall be verified and which shall set out concisely the proceedings which have taken place before the Appellate Tribunal. It shall be accompanied by two copies of the orders of the Appellate Tribunal disposing of the case.

4A. An application under section 66(2) of the Act filed by an assessee shall be accompanied by a Certificate from the Income-tax Appellate Tribunal to the effect that he has not withdrawn his application to the said Tribunal under section 66(1) of the Act.

5. With the petition shall be filed two spare copies thereof and of the orders referred to in rule 4 *supra*. The two spare copies of the petition and orders shall be neatly typed on substantial white paper, paged, indexed and stitched in book

form. The petition shall also be accompanied by a memorandum giving particulars for service on the respondent in Form No. 1 of Appendix IV, Appellate Side Rules, with Court-fee labels attached for the fees prescribed for service of notice on him. Div. 3 N

6. (*a*) As soon as the Registrar fixes a day for the hearing of the Referred Case or Petition, a notice of the date of hearing in the form herewith annexed shall be issued to the parties concerned.

(*b*) The rules in Chapter VII of the Appellate Side Rules shall, as far as may be applicable, apply to the service of notices in Referred Cases and Petitions under section 66 of the Act.

7. (*a*) References and applications under section 66 shall be posted before such Bench of two Judges as the Chief Justice may specify.

(*b*) Applications under sub-sections (2) and (3) of section 66 of the Act shall be posted for hearing as soon as service of notice has been effected.

(*c*) Referred Cases shall be posted for hearing after service of notice has been effected and the records have been printed. The translation, if any, and the printing of the statement of the case and documents annexed shall be done in the High Court at the expense of the party at whose instance the case is referred. The rules relating to the preparation of the record in Miscellaneous Cases shall, so far as may be, apply to such printing.

8. All cases referred or stated by the Appellate Tribunal shall, as far as possible, be divided into paragraphs numbered consecutively and shall concisely state such facts and refer to such documents, with copies of the latter annexed, as may be necessary to enable the Court to decide the question raised thereby.

9. Upon the argument of such Reference or Petition, the Court and the parties shall be at liberty to refer to the whole of the contents of the documents annexed to the case.

10. The statement of the case shall set out in the concluding paragraph thereof the point of law to be decided as stated in the application of the assessee or of the Commissioner of Income-tax or any modified form thereof which the High Court may have ordered.

11. The Court disposing of the case shall fix the fees payable by or to either party in its absolute discretion.

ANNEXURE

Form of notice under rule 6

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Appellate Side

Referred Case No. of 19 .
C.M.P. No. of 19 .

....Applicant in on the file of the Appellate Tribunal
Petitioner.

versus

....Respondent in on the file of the Appellate Tribunal
Respondent.

Div. 3 N Take notice that a case has been stated and referred by the *Appellate Tribunal* for the opinion of the Honourable Judges of the High Court under date the day of 19 or that a petition has been made to the High Court on the day of 19 by the abovenamed petitioner to require the *Appellate Tribunal* to state a case and refer it to the High Court for the opinion of the Honourable the Judges or to require the Appellate Tribunal to treat the application made by him to the Appellate Tribunal under section 66(1) of the Act as made within the prescribed time. You are hereby required to appear before the said High Court on the day of 19 in person or by a duly authorised pleader and be prepared to argue the said reference or petition and that, in default of your appearance, the said reference or petition may be heard or determined in your absence.

ALLAHABAD HIGH COURT RULES

1. Title of Application under section 66(2) or (3) of the Indian Income-tax Act, 1922.—An application under sub-section (2) or (3) of section 66 of the Indian Income-tax Act, 1922, (hereinafter referred to in this Chapter as "the Act") shall be entitled:

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

INCOME-TAX CASE NO. OF

Under $\frac{\text{sub-section (2)}}{\text{sub-section (3)}}$ of section 66 of the Indian Income-tax Act, 1922.

.....Applicant.

versus

.....Opposite Party.

2. Array of parties.—In an application presented on behalf of the assessee the opposite party shall be the Commissioner of Income-tax and in an application presented on behalf of the Commissioner of Income-tax, the assessee.

3. (1) Application under section 66(2) of the Indian Income-tax Act, 1922.—An application under sub-section (2) of section 66 of the Act shall state in precise language the question of law upon which the Appellate Tribunal is required to make a reference to the Court and contain a concise statement of the material facts out of which it arises. The application shall be accompanied by copies of the order of the Appellate Tribunal refusing to state the case, the order of the Appellate Tribunal under sub-section (4) of section 33 of the Act, the order of the Appellate Assistant Commissioner and the order of the Income-tax Officer.

(2) Application under section 66(3) of the Act.—An application under sub-section (3) of section 66 of the Act shall be accompanied by a copy of the order of the Appellate Tribunal rejecting the application made under sub-section (1) on the ground that it is time-barred.

(3) Affidavit.—An application under sub-Rule (1) or (2) shall, where the circumstances so require, be also accompanied by an affidavit.

4. Presentation of application.—The application shall be accompanied by two copies thereof as well as the affidavit, if any, filed under Rule 3(3) and shall be presented before the Registrar. The application shall be numbered and registered as a miscellaneous case. **Div. 3 N**

5. Court's power to dispense with any copy or to allow time for filing it.—The Registrar may for sufficient cause shown either dispense with any copy or copies mentioned in Rule 3 or allow any such copy or copies to be filed within such further time as he may deem fit to allow and may extend such time.

6. Application to be heard by a Division Bench specially constituted.—Unless otherwise ordered by the Chief Justice, the Registrar shall direct that the application be laid before the Division Bench appointed by the general or special order of the Chief Justice to hear applications under this Chapter.

7. Issue of notice.—The Bench may either reject the application after giving an opportunity to the applicant to be heard or direct that notice thereof be served upon the opposite party calling upon it to appear and show cause why the application should not be granted.

8. Copies of application and affidavit to accompany notice.—The notice under Rule 6 or 7 shall be accompanied by a copy of the application as well as the affidavit, if any, filed under Rule 3(3).

9. Reply.—Within thirty days of the service of notice under Rule 6 or 7 the opposite party may submit a reply to the application accompanied, if necessary, by an affidavit. The reply shall be accompanied by two copies thereof as well as the affidavit, if any. Copies of the reply and the affidavit, if any, shall be served upon the applicant by the Registrar unless such copies have already been served by the appropriate party upon the advocate for the applicant.

10. Advocates to accept service of notice.—Advocates for the parties shall be bound to accept service on behalf of the party represented by them of any notice issued by the Court or the Appellate Tribunal or of copies under Rule 9 as the case may be, until the case has been finally disposed of.

Any change of Advocates appearing for a party shall immediately be notified by it to the Court, the Appellate Tribunal and the opposite party.

11. Orders on the application.—On the date fixed for the hearing of the application, the Court may after hearing the parties, if they appear, either pass an order dismissing it or, in the case of an application under sub-section (2) of section 66 of the Act, require the Appellate Tribunal to state the case and to refer it to the Court and, in the case of an application under sub-section (3), require the Appellate Tribunal to treat the application presented before it as made within the time allowed under sub-section (1).

12. Form of reference by the Appellate Tribunal.—The statement of a case referred to the Court by the Appellate Tribunal shall indicate the precise question of law arising in the case and concisely state such facts as may be necessary to enable the Court to decide it. It shall also contain references to all such documents as may be necessary to enable the Court to decide the question and shall be accompanied by copies of such documents or relevant extracts therefrom.

The statement may include more than one question of law arising in a case.

Div. 3 N

13. Notice of reference by the Appellate Tribunal.—On receipt of the statement of a case referred to the Court by the Appellate Tribunal under sub-section (1) or (2) of section 66 of the Act, notice thereof shall be given to the parties and the Registrar shall call upon the party at whose instance the reference has been made to prepare or cause to be prepared a paper-book of the case within such time as the Registrar may allow. The Registrar may for sufficient cause shown extend such time.

14. Paper-book.—(1) The paper-book shall consist of a fly-sheet and a general index and contain copies of the following papers, namely—

(*i*) Application and the affidavit accompanying it, if any.

(*ii*) Reply to the application and the affidavit accompanying it, if any.

(*iii*) Any orders passed by the Court under sub-section (2), (3) or (4) of section 66 of the Act.

(*iv*) Statement of the case and copies of documents or extract therefrom, if any, forming part of the case.

(*v*) Any objection by a party to the statement of the case.

(*vi*) Order of the Appellate Tribunal under sub-section (4) of section 33 of the Act.

(*vii*) Order of the Appellate Assistant Commissioner.

(*viii*) Order of the Income-tax Officer.

(2) Where the case is referred back to the Appellate Tribunal under sub-section (4) of section 66 of the Act, a copy of the statement of the case as added to or altered by the said Tribunal shall also be included in the paper-book.

(3) If any party desires that a copy of any other document be included in the paper-book on the ground that it is necessary for the determination of the question of law referred to the Court, it shall make an application in writing to the Registrar fully explaining the relevancy of such document. The Registrar shall give notice of the application to the opposite party and may after hearing any objection that may be filed by such party, either reject the application or direct that a copy of such document be included in the paper-book.

(4) The paper-book shall, unless otherwise ordered, be a typewritten one and such number of copies thereof shall be prepared as the Registrar may direct.

15. Cost of preparing paper-book.—The Registrar shall determine the cost of preparing the paper-book and such cost shall be cost in the cause.

16. Preparation of paper-book under the direction and supervision of the Registrar.—Where the registrar directs that the paper-book be prepared under his direction or supervision, the preparation of such paper-book shall not be undertaken unless the party concerned furnishes evidence to the Registrar of his having deposited the cost of preparing it, as determined by the Registrar, with the Cashier.

17. Hearing of case after preparation of paper-book.—When the paper-book has been prepared, the Registrar shall cause copies thereof to be supplied to the parties and thereafter the case shall be listed for hearing before the Bench concerned.

18. Copies of orders passed by the Court to be sent to the Appellate Tribunal.—Copies of any orders passed by the Court under sub-section (2), (3) or (4) or any judgment delivered by it under sub-section (5) of section 66 of the Act shall be sent forthwith to the Registrar of the Appellate Tribunal under the seal of the Court and the signature of the Registrar together with two uncertified copies of the same. Div. 3 N

19. Costs.—Costs taxable as Advocates' fees shall be determined by the Court having regard to the provisions of Rule 7 of Chapter XVI of Part II of these Rules.

20. Application of Rules to similar proceedings under other Acts.—The Rules contained in this Chapter shall, so far as may be and with necessary modifications and adaptations, also apply to proceedings of a similar nature under any other Act including those as under—

(*i*) Sections 21 and 66 of the Excess Profits Tax Act, 1940;

(*ii*) Sections 19 and 66 of the Business Profits Tax Act, 1947;

(*iii*) Sub-section (2)(*b*) of section 11 of the U.P. Sales Tax Act, 1948;

(*iv*) Sub-section (4) of section 24 of the U.P. Agricultural Income-tax Act, 1948;

(*v*) Section 27 of the Workmen's Compensation Act, 1923; and

(*vi*) Section 57 or 60 of the Indian Stamp Act, 1899.

Provided that where a reference may under the law be made by the Court or authority making the reference without an application by a party, the paper-book shall be prepared under the direction and supervision of the Registrar and Rules 15 and 16 shall not apply.

PATNA HIGH COURT RULES

1. References and applications under section 66 of the Act shall be posted before such Bench of two Judges as the Chief Justice may specify.

2. (*a*) Applications under sub-section (2) of section 66 of the Act shall be accompanied by a copy of the order of the Appellate Tribunal refusing to state the case and also by copies of the following papers:—

(*i*) the order of the Income-tax Officer;

(*ii*) the order of the Appellate Assistant Commissioner or Commissioner; and

(*iii*) any other paper or document which the applicant considers necessary for the disposal of the application.

(*b*) Applications under sub-section (3) of section 66 of the Act shall be accompanied by only a copy of the order rejecting the application as time-barred.

(*c*) The applications shall be posted for hearing as soon as service of notice has been effected on the opposite party.

Div. 3 N

3. References shall be posted for hearing after the service of notice has been effected on the opposite party and the printed paper books have been received from the Income-tax Appellate Tribunal.

Note.—Service of notice contemplated in these rules shall be deemed sufficient if made on counsel for the party.

4. The cost of preparation of paper books shall be paid to the Appellate Tribunal by the party seeking the reference within the time fixed by the Appellate Tribunal.

5. After the paper books have been prepared, the Appellate Tribunal shall supply the requisite number of copies to the parties and forward four copies thereof to this Court, together with a certificate of costs incurred in the preparation of the paper books, for subsequent adjustment of costs.

6. In case of default in making the payment aforesaid, the case shall be laid before the Bench for orders upon receipt of a report to that effect from the Appellate Tribunal.

MYSORE HIGH COURT RULES

(*Notification No. R.O.C.* 1115–55, *dated the* 12*th August*, 1955)

In exercise of the powers conferred under articles 215 and 225 of the Constitution of India, section 129 of the Code of Civil Procedure, and all other powers hereunto enabling, the High Court of Mysore at Bangalore do make the following rules to regulate the proceedings in regard to references and applications to the High Court under section 66 of the Indian Income-tax Act, 1922 (Central Act XI of 1922).

1. References under section 66 of the Indian Income-tax Act, hereinafter called "the Act", made by the Income-tax Appellate Tribunal, stating a case for the opinion of the High Court, shall, on receipt thereof by the Registrar, be numbered as Income-tax Act,—Referred Cases; but no Court-fee shall be levied on such references.

2. The Registrar, Appellate Tribunal, shall together with the letter of reference submit two copies of the said letter and of any records necessary for the consideration of the reference.

3. (*a*) On the said reference being numbered as Income-tax Referred Case the Registrar shall fix a day for the hearing of the case and intimation thereof shall be given to the party at whose instance the reference was made and to the Appellate Tribunal.

(*b*) Within a fortnight of the receipt of intimation referred to in sub-clause (*a*) above, such party shall file a memorandum giving particulars of the name, place of residence, etc., of the parties concerned for service together with the Court-fee stamps prescribed under the Court-fees Act, attached, for service of notice on them.

4. (*a*) Any application under section 66(2) of the Act requiring the Appellate Tribunal to state a case for the opinion of the High Court shall be by a civil petition. The petition shall be verified and shall contain in precise language a statement of the point of law upon which the case is to be stated and shall set out concisely the material facts and the proceedings which have taken place before the Income-tax Officers and the Appellate Tribunal. Copies of the Orders of the Income-tax Officer, of the Appellate Assistant Commissioner of Income-tax, and of the Appellate Tribunal under section 33(4) of the Act out of which the question of law arose and under section 66 of the Act refusing to state a case shall be filed with the petition. **Div. 3 N**

(*b*) An application under section 66(2) of the Act filed by an assessee shall be accompanied by a certificate from the Income-tax Appellate Tribunal to the effect that the assessee has not withdrawn his application for reference under section 66(1) of the Act before the said Tribunal.

(*c*) An application under section 66(3) of the Act shall also be by a civil petition which shall be verified and which shall set out concisely the proceedings which have taken place before the Appellate Tribunal. It shall be accompanied by two copies of the orders of the Appellate Tribunal disposing of the case.

5. With the petition shall be filed two spare copies thereof and of the orders referred to in Rule 4 *supra*. The two spare copies of the petition and orders shall be neatly typed on substantial white paper, paged, indexed and stitched in book form The petition shall also be accompanied by a memorandum giving particulars of the name, place of residence, etc., for service on the respondent with Court-fee stamps attached according to rules for service of process.

6. (*a*) As soon as the Registrar fixes a date for the hearing of the referred case or petition, a notice of the date of hearing in Form No. I of the Appendix shall be issued to the parties concerned.

(*b*) The Rules of the High Court regarding the service of notices of appeals shall, as far as may be applicable, apply to the service of notices in referred cases and petitions under section 66 of the Act.

7. (*a*) Reference and applications under section 66 shall be posted before such Division Bench as the Chief Justice may specify.

(*b*) Applications under sub-sections (2) and (3) of section 66 of the Act, shall be posted for hearing as soon as service of notice has been effected.

(*c*) Referred cases shall be posted for hearing after service of notice has been effected and the records have been got ready. Four clean typed copies of the statement of the case, and the documents annexed thereto, as well as of other necessary papers shall be produced by the party at whose instance the case is referred.

8. All cases referred or stated by the Appellate Tribunal shall, as far as possible, be divided into paragraphs numbered consecutively and shall concisely state such facts and refer to such documents, with copies of the latter annexed, as may be necessary to enable the Court to decide the question raised thereby.

9. Upon the argument of such reference or petition the Court and the party shall be at liberty to refer to the whole of the contents of the documents annexed to the case.

Div. 3 N

10. The statement of the case shall set out in the concluding paragraph thereof, the question of law to be decided by the High Court, arising out of the order of the Income-tax Appellate Tribunal under section 33(4) of the Income-tax Act, or which have been directed to be referred pursuant to an order of the High Court under section 66(2) of the said Act.

11. Copies of all orders passed on references and petitions under section 66 of the Act shall be forwarded under the signature of the Registrar of the Income-tax Appellate Tribunal, to the assessee and the Income-tax Commissioner.

12. The Court disposing of the case shall fix the fees payable by either party in its absolute discretion including advocates' fee subject to a minimum of Rs. 50 and a maximum of Rs. 500.

FORM No. I

(*Form of Notice under Rule* 6)

IN THE HIGH COURT OF MYSORE AT BANGALORE

Income-tax Referred Case No.. ....of 19 .

.. .. (name) Applicant in. ....on the file of the Appellate Tribunal. (*Petitioner*)

v.

.. ..(name) Respondent in..... .. on the file of the Appellate Tribunal. (*Respondent*)

Take notice that a case has been stated and referred by the Appellate Tribunal for the opinion of the Honourable Judges of the High Court on the ... . .day of .... 19.....or that a petition has been made to the High Court on the ... . day of . ... 19. . .. by the abovenamed petitioner to require the Appellate Tribunal to state a case and refer it to the High Court for the opinion of the Honourable Judges or to require the Appellate Tribunal to treat the application made by him to the Appellate Tribunal under section 66(1) of the Act as made within the prescribed time. You are hereby required to appear before this Court on the..... ....day of .. ..19.. ... in person or by a duly authorised advocate and be prepared to argue the said reference or petition and that, in default of your appearance, the said reference or petition may be heard or determined in your absence.

Given under my hand and seal of this Court this . ...day of. ..... .19

REGISTRAR

N.B.—Score out the words which are not suited for the particular kind of petition.

DIVISION 4

LAWS RELATING TO MERGED STATES AND PART B STATES

A

THE TAXATION LAWS (EXTENSION TO TEHRI-GARHWAL) ORDER, 1949*

6th September, 1949

Whereas the Central Government has full and exclusive authority, jurisdiction and powers for, and in relation to, the governance of the State of Tehri-Garhwal;

Now, therefore, in exercise of the powers conferred by section 4 of the Extra-Provincial Jurisdiction Act, 1947 (XLVII of 1947), and of all other powers enabling it in that behalf, the Central Government is pleased to make the following Order :—

1. **Short title, extent and commencement.**—(1) This Order may be called the Taxation Laws (Extension to Tehri-Garhwal) Order, 1949.

(2) It extends to the whole of Tehri-Garhwal.

(3) It shall come into force at once.

2. **Extension of taxation laws to Tehri-Garhwal.**—(1) The following Acts, namely :—

(*i*) the Indian Income-tax Act, 1922 (XI of 1922),

(*ii*) the Government Trading Taxation Act, 1926 (III of 1926),

(*iii*) the Business Profits Tax Act, 1947 (XXI of 1947),

(*iv*) the Taxation on Income (Investigation Commission) Act, 1947 (XXX of 1947),

(*v*) the Indian Finance Act, 1949 (XIV of 1949),

(*vi*) the Payment of Taxes (Transfer of Property) Act, 1949 (XXII of 1949),

and all rules and orders made thereunder which are in force immediately before the commencement of this Order, are hereby extended to, and shall be in force in, the said State.

(2) The Indian Income-tax Act, 1922, the Business Profits Tax Act, 1947, and the Indian Finance Act, 1949, and all rules and orders made thereunder, shall operate as if they had been extended to, and brought into force in, the said State on the 1st day of April, 1949.

3. **Interpretation of laws as extended.**—In any Act, rule or order extended by section 2 to the said State, notwithstanding anything contained in the General Clauses Act, 1897 (X of 1897),—

(*a*) any reference, by whatever form of words, to the Acceding States or the Indian States shall be construed as not including a reference to the said State;

(*b*) any reference, by whatever form of words, to British subjects shall be deemed to include a reference to persons who immediately before the 1st day of August, 1949, were subjects of the said State;

(*c*) any reference, by whatever form of words, to the United Provinces shall be construed as including a reference to the said State;

(*d*) any reference, by whatever form of words, to the Provinces generally shall be construed as including a reference to the said State.

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* Published in the Gazette of India, Part I, Section I, dated the 10th September, 1949.

For the sake of clarity this Order is reproduced above without the amendments which were effected by the Adaptation of Laws Order, 1950.

Div. 4 A

4. Amendment of Act XI of 1922.—In the extension of the Indian Income-tax Act, 1922, to Tehri-Garhwal, the said Act shall be subject to the following amendments and the amendments shall be deemed to have been made on the 1st day of April, 1949, namely :—

(*i*) the amendments specified in the First Schedule to the Taxation Laws (Extension to Merged States) Ordinance, 1949, as if the expression "merged States" therein includes a reference to the said State ;

(*ii*) for the purpose of sub-section (8) of section 66, "the High Court" in relation to the said State means the High Court at Allahabad.

5. Amendment of Act XXI of 1947.—In the extension of the Business Profits Tax Act, 1947, to Tehri-Garhwal the said Act shall be subject to the amendments specified in the Second Schedule to the Taxation Laws (Extension to Merged States) Ordinance, 1949, as if the expression "merged States" includes a reference to the said State and the amendments shall be deemed to have been made on the 1st day of April, 1949.

6. Repeal of corresponding laws and savings.—(1) If, immediately before the commencement of this Order, there is in force in the said State any law relating to income-tax, super-tax or business profits tax, that law shall cease to have effect except for the purposes of the levy, assessment and collection of income-tax and super-tax in respect of any period not included in the previous year for the purposes of assessment under the Indian Income-tax Act, 1922, as extended to the said State by this Order, or, as the case may be, the levy, assessment and collection of business profits tax for any chargeable accounting period ending on or before the 31st day of March, 1948, and for any purposes connected with such levy, assessment or collection :

Provided that any reference in any such law to an officer, authority, tribunal or Court shall be construed as a reference to the corresponding officer, authority, tribunal or Court appointed or constituted by or under the Indian Income-tax Act, 1922, or, as the case may be, the Business Profits Tax Act, 1947, as extended by this Order to the said State :

Provided further that if any question arises as to who such corresponding officer, authority, tribunal or Court is, the decision of the Central Government thereon shall be final.

(2) If immediately before the commencement of this Order there is in force in the said State any law corresponding to the Government Trading Taxation Act, 1926, the Taxation on Income (Investigation Commission) Act, 1947, or the Payment of Taxes (Transfer of Property) Act, 1949, such corresponding law is hereby repealed :

Provided that section 6 of the General Clauses Act, 1897, shall apply in relation to such repeal as if the corresponding law had been an enactment and that enactment had been repealed by a Central Act.

7. Removal of difficulties.—If any difficulty arises in giving effect to the provisions of this Order, the Central Government may by order make such provisions, or give such directions as appear to it to be necessary for removal of the difficulty.

B

THE TAXATION LAWS (EXTENSION TO MERGED STATES AND AMENDMENT) ACT, 1949

(ACT No. LXVII OF 1949)

(*Received the assent of the Governor-General on the* 31*st December*, 1949.)

An Act to extend certain laws relating to taxation on income to certain areas administered as parts of Governors' Provinces or as Chief Commissioners' Provinces and further to amend certain laws relating to taxation on income.

Whereas it is expedient to extend certain laws relating to taxation on income to certain areas administered as parts of Governors' Provinces or as Chief Commissioners' Provinces;

And whereas it is expedient further to amend certain laws relating to taxation on income for the purposes hereinafter appearing;

It is hereby enacted as follows:—

CHAPTER I

PRELIMINARY

1. Short title.—This Act may be called the Taxation Laws (Extension to Merged States and Amendment) Act, 1949.

CHAPTER II

EXTENSION OF TAXATION LAWS TO MERGED STATES

2. Definitions.—In this Chapter—

(1) the expression "merged States" means all the States and parts of States which are administered by virtue of the States' Merger (Governors' Provinces) Order, 1949, as if they formed part of a [1][Part A State] or administered by virtue of the States' Merger (Chief Commissioners' Provinces) Order, 1949, as if they were a [2][Part C State];

(2) "appointed day" means—

(*a*) the first day of August, 1949, in relation to the States specified—

(*i*) in Schedules I to VI of the States' Merger (Governors' Provinces) Order, 1949, and

(*ii*) in paragraph (1) of Article 2 of the States' Merger (Chief Commissioners' Provinces) Order, 1949; and

(*b*) the 1st day of December, 1949, in relation to the States of Benares and Tehri-Garhwal.

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[1] Substituted for "Governor's Province" by the Adaptation of Laws Order, 1950.

[2] Substituted for "Chief Commissioner's Province," *ibid.*

Div. 4 B

3. Extension of taxation laws to merged States.—(1) The following Acts, namely :—

(*i*) the Indian Income-tax Act, 1922 (XI of 1922),

(*ii*) the Government Trading Taxation Act, 1926 (III of 1926),

(*iii*) the Business Profits Tax Act, 1947 (XXI of 1947),

(*iv*) the Taxation on Income (Investigation Commission) Act, 1947 (XXX of 1947),

(*v*) the Indian Finance Act, 1949 (XIV of 1949),

(*vi*) the Payment of Taxes (Transfer of Property) Act, 1949 (XXII of 1949),

and all rules and orders made thereunder which are in force immediately before the commencement of this Act, are hereby extended to, and shall be in force in, all the merged States.

(2) The Indian Income-tax Act, 1922, the Business Profits Tax Act, 1947, and the Indian Finance Act, 1949, and all rules and orders made thereunder, shall operate as if they had been extended to, and brought into force in, all the merged States on the 1st day of April, 1949.

4. Interpretation of laws as extended.—In any Act, rule or order extended by section 3 to the merged States, notwithstanding anything contained in the General Clauses Act, 1897 (X of 1897),—

(*a*) any reference, by whatever form of words, to the [3][Part B States] shall be construed as not including a reference to any of the merged States ;

(*b*) any reference, by whatever form of words, to British subjects shall be deemed to include a reference to persons who, immediately before the appointed day, were subjects of any of the merged States ;

(*c*) any reference, by whatever form of words, to any [4][Part A State] shall be construed as including a reference to those merged States which are now administered as if they formed part of that [5][State] ; and

(*d*) any reference, by whatever form of words, to the [5][States] generally or to the [6][Part C States] generally shall be construed as including a reference to those merged States which are now administered as if they were a [6][Part C State].

5. General notice for return of income in the case of merged States.—The provisions of sub-section (1) of section 22 of the Indian Income-tax Act, 1922 (XI of 1922), as extended to the merged States shall, in respect of the year ending on the 31st day of March, 1950, be deemed to have been complied with, if the notice in terms of that sub-section is given within a period of two months of the appointed day.

6. Removal of difficulties.—If any difficulty arises in giving effect to the provisions of any Act, rule or order extended by section 3 to the merged States, the Central Government may, by order, make such provisions or give such directions as appear to it to be necessary for removal of the difficulty.

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[3] Substituted for "acceding States or the Indian States" by the Adaptation of Laws Order, 1950.

[4] Substituted for "Governor's Province," *ibid.*

[5] Substituted for "Province" and "Provinces" respectively, *ibid.*

[6] Substituted for "Chief Commissioners' Provinces" and "Chief Commissioner's Province" respectively, *ibid.*

7. Repeal of corresponding laws and savings.—(1) If, immediately before the 26th day of August, 1949, there was in force in any of the merged States any law relating to income-tax, super-tax or business profits tax, that law shall cease to have effect except for the purposes of the levy, assessment and collection of income-tax and super-tax in respect of any period not included in the previous year for the purposes of assessment under the Indian Income-tax Act, 1922, as extended to that State by section 3, or, as the case may be, the levy, assessment and collection of business profits tax for any chargeable accounting period ending on or before the 31st day of March, 1948, and for any purposes connected with such levy, assessment or collection : Div. 4 B

Provided that any reference in any such law to an officer, authority, tribunal or Court shall be construed as a reference to the corresponding officer, authority, tribunal or Court appointed or constituted by or under the Indian Income-tax Act, 1922, or, as the case may be, the Business Profits Tax Act, 1947, as extended by section 3 to that merged State :

Provided further that if any question arises as to who such corresponding officer, authority, tribunal or Court is, the decision of the Central Government thereon shall be final.

(2) Notwithstanding anything contained in any Order made by the Government of any [7][State] under the Extra-Provincial Jurisdiction Act, 1947 (XLVII of 1947), applying the Indian Income-tax Act, 1922, or the Business Profits Tax Act, 1947, to any of the merged States now administered as part of that [7][State], and repealing the corresponding enactment, if any, of that merged State in force therein immediately before such application, that enactment shall be deemed to be a law in force in that merged State immediately before the 26th day of August, 1949, and the provisions of sub-section (1) of this section shall apply accordingly in relation to that law ; and all references to the Indian Income-tax Act, 1922, and the Business Profits Tax Act, 1947, shall be omitted from, and shall be deemed never to have been included in, the said Order.

(3) If, immediately before the 26th day of August, 1949, there was in force in any of the merged States any law corresponding to the Government Trading Taxation Act, 1926, the Taxation on Income (Investigation Commission) Act, 1947, or the Payment of Taxes (Transfer of Property) Act, 1949, whether by virtue of an order under the Extra-Provincial Jurisdiction Act, 1947, or by virtue of any other legislative power, such corresponding law is hereby repealed :

Provided that section 6 of the General Clauses Act, 1897, shall apply in relation to such repeal as if the corresponding law had been an enactment.

* * * * *

[7] Substituted for "Province" by the Adaptation of Laws Order, 1950.

Div. 4 B

APPLICATION OF THE CENTRAL BOARD OF REVENUE ACT, 1924 (IV OF 1924), TO ALL THE MERGED STATES

(*Notification No.* 141-*J.*, *dated the* 8*th June*, 1949)

In exercise of the powers conferred by section 4 of the Extra-Provincial Jurisdiction Act, 1947 (XLVII of 1947), and of all other powers enabling it in this behalf, the Central Government is pleased to direct that the Central Board of Revenue Act, 1924 (IV of 1924), shall apply to all the Part B States for the governance of which the Central Government has, or may hereafter have, full and exclusive authority, jurisdiction and powers (hereinafter referred to as "the Merged States") subject to the following modifications, namely :—

(*i*) Sub-section (2) of section 1 shall be omitted, and

(*ii*) for section 2 the following shall be substituted, namely :—

"2. The Central Board of Revenue constituted under this Act shall be subject to the control of the Central Government in the exercise of such powers and such duties as may be entrusted to it by the Central Government or by or under any law."

2. This order supersedes any corresponding order by any Provincial Government applying the Central Board of Revenue Act, 1924 (IV of 1924), to any of the Merged States.

C

THE MERGED STATES (TAXATION CONCESSIONS) ORDER, 1949

(*Notification No.* 22(40)—*I.T./49, dated the 3rd December,* 1949[1])

In exercise of the powers conferred by section 60A of the Indian Income-tax Act, 1922 (XI of 1922), and section 23A of the Business Profits Tax Act, 1947 (XXI of 1947), the Central Government is pleased to make the exemptions, reductions in rate of tax and the modifications specified in this Order.

2. This Order may be cited as the Merged States (Taxation Concessions) Order, 1949.

3. In this Order—

[2][(*i*) the 'Act' means the Taxation Laws (Extension to Merged States and Amendment) Act, 1949 (LXVII of 1949)] ;

(*ii*) the expression 'Indian rate of tax' means the rate determined by dividing the amount of income-tax and super-tax payable in [3][the taxable territories] on the total income for the year in question by the amount of such total income ;

(*iii*) the expression 'Merged State rate of tax' means the rate determined by dividing the amount of income-tax and super-tax payable on the total income according to the rates of tax in force in the merged State for the year in question by the amount of such total income ;
Explanation.—Where there was no State law relating to charge of income-tax and super-tax, the merged State rate of tax shall be deemed to be *nil* ;

(*iv*) the expression 'State law' means any law relating to income-tax, super-tax or business profits tax in force in the merged State immediately before the commencement of the [4][Act] ;

[5][(*v*) the expression 'taxable territories' shall have the same meaning as assigned to that expression by clause (14A) of section 2 of the Indian Income-tax Act, 1922.]

4. The provisions of paragraphs 5, 6, 9, 10 and 11 of this Order shall apply to only so much of the income, profits and gains included in the total income of an assessee as would, had he been resident in [3][the taxable territories], have been exempt under clause (*c*) of sub-section (2) of section 14 of the Indian Income-tax Act, 1922, if the [6][Act had not been passed].

5. (1) The income, profits and gains of any previous year ending *after* the 31st day of March, 1948, which is a previous year—

(*i*) for the merged State assessment year 1948-49, or

(*ii*) for the merged State assessment year 1949-50,

shall be assessed under the Indian Income-tax Act, 1922, if, and only if, such income, profits and gains have not, before the 1st day of August, 1949, been assessed under the State law.

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[1] Published in the *Gazette of India,* Extraordinary, dated the 3rd December, 1949.

[2] Substituted by Notification No. 22(40)—I.T.—46, dated the 11th March, 1950.

[3] Substituted for "British India" *ibid.*

[4] Substituted for "Ordinance," *ibid.*

[5] Added, *ibid.*

[6] Substituted for "Ordinance had not been promulgated," *ibid.*

Div. 4 C

(2) Where the income, profits and gains referred to in sub-paragraph (1) have not been assessed under the State law, they shall be assessed under the Indian Income-tax Act, 1922, and the tax payable thereon shall be determined as hereunder—

(*i*) the tax on the amount of such income, profits and gains included in the total income shall be computed at the Indian rate of tax ;

(*ii*) the amount of such income, profits and gains shall be computed under the State law and the tax thereon computed at the merged State rate of tax ;

(*iii*) the amount, if any, by which the tax computed under clause (*i*) exceeds the tax computed under clause (*ii*) shall be allowed as rebate from the first mentioned tax, and the amount of the first mentioned tax as so reduced shall be the tax payable.

(3) For the purposes of this paragraph—

(*a*) the merged State assessment year 1948-49 means the assessment year which commences on any date between the 1st April, 1948, and the 31st December, 1948, both dates inclusive ; and

(*b*) the merged State assessment year 1949-50 means the assessment year which commences on any date between the 2nd January, 1949, and the 31st July, 1949, both dates inclusive.

6. (1) The income, profits and gains of any previous year [7][ending after the 31st day of March, 1948, which does not fall within paragraph 5 of this Order or of any previous year commencing after the previous year referred to in the said paragraph] shall be assessed under the Indian Income-tax Act, 1922, but the tax payable on so much of the income as pertains to the period ending before the 1st day of August, 1949, shall be determined as hereunder—

(*i*) the tax on so much of such income included in the total income shall be computed (*a*) at the Indian rate of tax and (*b*) at the rates of tax in force in the merged State immediately before the 1st day of August, 1949 ;

(*ii*) the amount by which the tax computed under sub-clause (*a*) of clause (*i*) exceeds the tax computed under sub-clause (*b*) of clause (*i*) shall be allowed as rebate from the first mentioned tax, and the amount of the first mentioned tax as so reduced shall be the tax payable.

(2) Where any previous year falls partly before and partly on or after the 1st day of August, 1949, the income, profits and gains pertaining to the period falling before the said date shall, unless the Income-tax Officer, having regard to any special circumstances, otherwise directs with the approval of the Inspecting Assistant Commissioner of Income-tax, be in the proportion which the period before the said date bears to the whole previous year.

[8][**6A.** The income, profits and gains of any previous year, referred to in paragraph 5 or 6 of this Order, which accrue or arise without the taxable territories to a person who is resident but who would not be resident in the taxable territories if the Act had not been passed, shall be charged to tax in the same manner and to the same extent as specified in the said paragraph 5 or 6, as the case may be.]

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[7] Substituted for "commencing after the previous year referred to in paragraph 5 of this Order" by Notification No. 22(40)—I.T.—46, dated the 11th March, 1950.

[8] Inserted, *ibid.*

7. (1) Where, before the commencement of the [9][Act], any income has been assessed in the merged State and also in [10][the taxable territories], double income-tax relief which would have been admissible in [10][the taxable territories] under the Income-tax (Double Taxation Relief) (Indian States) Rules, 1939, and in the merged State under the corresponding Rules shall be allowed. **Div. 4 C**

(2) Where, before the commencement of the [9][Act], any income accruing or arising before the 1st day of August, 1949, has been assessed in the merged State or in [10][the taxable territories] and the whole or part of such income is also assessable in [10][the taxable territories] or the merged State, as the case may be, the tax payable in respect of the assessment to be made shall be reduced by the amount of double income-tax relief which would have been allowable in accordance with sub-paragraph (1).

8. (1) Notwithstanding anything contained in *Explanation* 4 to sub-section (1) of section 4 of the Indian Income-tax Act, 1922, the income, profits and gains brought into or received in any part of [10][the taxable territories] other than the merged State, after the 31st day of July, 1949, shall not be charged to tax *as income of the previous year in which they are so brought or received* except where—

(*i*) the assessee is a person who has been assessed or is assessable in [10][the taxable territories] as resident for three out of six years of assessment commencing on the 1st day of April, 1943, and ending on the 31st day of March, 1949 ; and

(*ii*) such income, profits and gains—

(*a*) being assessable in the merged State had not been assessed ; or

(*b*) being liable to be included in [10][the taxable territories] in the "total income" of the relevant year under the provisions of the Indian Income-tax Act, 1922, had not been included.

(2) Where the income, profits and gains referred to in sub-paragraph (1) are chargeable as the income of the previous year, in accordance with the provisions of that sub-paragraph, the tax payable thereon shall be determined as hereunder—

(*i*) the tax payable on the amount of such income, profits and gains included in the total income shall be computed at the Indian rate of tax ;

(*ii*) the tax payable in the merged State in the relevant year in which such income, profits and gains were assessable shall, if not already assessed, be computed at the merged State rate of tax ;

(*iii*) the tax payable in [10][the taxable territories] in the relevant year in which such income, profits and gains were assessable shall, if not already assessed, be computed at the Indian rate of tax ;

(*iv*) the sum of the taxes payable under clauses (*ii*) and (*iii*) shall be reduced by the amount of the double income-tax relief, if any, which would have been allowable in accordance with sub-paragraph (1) of paragraph 7 ;

(*v*) the amount by which the tax computed under clause (*i*) exceeds the tax computed under clause (*iv*) shall be allowed as a rebate from the first mentioned tax, and the amount of the first mentioned tax as so reduced shall be the tax payable.

9. Where the total income of any previous year ending on or after the 1st day of April, 1948, includes any income under the head capital gains arising before the said date, such capital gains shall not be charged to tax under the Indian

[9] Substituted for "Ordinance", *ibid.*

[10] Substituted for "British India", *ibid.*

Div. 4 C

Income-tax Act, 1922, unless the State law contains a provision corresponding to section 12B of the said Act. Where such capital gains are chargeable to tax, the computation of tax shall be subject to the provision of paragraph 5 of this Order.

10. In computing the total income of an assessee for any period before the 1st day of August, 1949, for the purposes of paragraphs 5 and 6 of this Order, the provisions of clause (*c*) of sub-section (1) and of sub-section (3) of section 16 of the Indian Income-tax Act, 1922, shall not be applied unless the State law contains provisions corresponding thereto.

11. (1) The provisions of section 18A of the Indian Income-tax Act regarding the advance payment of tax shall not be applied in the year ending on the 31st day of March, 1950, in respect of any income accruing or arising in a merged State unless the State law contains a provision corresponding thereto.

(2) Where the provisions of section 18A of the Indian Income-tax Act are applicable in the year ending on the 31st day of March, 1950, or any subsequent year, the expression "latest previous year in respect of which he has been assessed" in clause (*a*) of sub-section (1) of the said section shall be deemed to mean the latest previous year in respect of which he has been assessed either in the merged State or in [11][the taxable territories] or in both, as the case may be :

Provided that where the income of the latest previous year in respect of which a person has been assessed in the State and in [11][the taxable territories] is to be taken in aggregate for the purposes of this paragraph, so much of such income as has been included in both the assessments should be excluded from the aggregate.

12. The provisions of section 23A of the Indian Income-tax Act shall not be applied in respect of the profits and gains of any previous year ending before the 1st day of August, 1949, unless the State law contains a provision corresponding thereto.

13. Any income falling within the following classes shall be exempt from income-tax and super-tax and shall not be included in the total income or total world income of the person receiving them :

(*i*) The privy purse of the Ruler of a merged State.

(*ii*) Any sum which the [12][widow or the mother of a person who was the Ruler] of a merged State before the 1st day of August, 1949, receives as her maintenance allowance out of public revenues [13]* * * *.

[14] * * * * *

(*iii*) Any pension paid out of public revenues which a person receives as the subordinate chief of the Ruler of a merged State where such pension was payable to him in that capacity by the Ruler immediately before the 1st day of August, 1949.

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[11] Substituted for "British India" by Notification No. 22(40)—I.T.-46, dated the 11th March, 1950.

[12] Substituted for "mother or the father's mother of the person who was a Ruler", *ibid.*

[13] "For so long as such allowance is received by her in the merged State and is not brought into or received in any part of the taxable territories" omitted by Notification No. S.R.O. 351, dated the 12th August, 1950.

[14] The proviso to clause (*ii*) which had been inserted, *ibid.*, was omitted by Notification No. 1491, dated the 19th September, 1951, and shall be deemed never to have been inserted.

[15][(*iv*) The *bona fide* annual value of the palaces of Rulers of Indian States which are declared by the Central Government as the Official residences of such Rulers.] **Div. 4 C**

[16][(*v*) The profits of any Co-operative Society registered under any Act in force in a merged State, or dividends or other payments received by members of any such society out of such profits.

For this purpose, the profits of a Co-operative Society shall not be deemed to include any income, profits or gains from—

(1) investments in (*a*) securities of the nature referred to in section 8 of the Indian Income-tax Act, or (*b*) property of the nature referred to in section 9 of that Act,

(2) dividends, or

(3) the other sources referred to in section 12 of the Indian Income-tax Act.]

14. No business profits tax shall be payable under the Business Profits Tax Act, 1947, in respect of such profits arising in any accounting period falling within the year ending on the 31st day of March, 1949, as are exempt under the second proviso to section 5 of the said Act, unless, immediately before the commencement of the [17][Act] there was in force in the merged State any law relating to the charge of business profits tax. If there was any such law, the business profits tax payable under the Business Profits Tax Act, 1947, shall be reduced so as not to exceed the tax that would have been payable if the profits were computed and the tax charged in accordance with the merged State law.

15. (1) Where any industrial undertaking situate in a merged State claims that it has been granted any exemption from or concession in respect of income-tax, super-tax or business profits tax by the Ruler of the State before the 1st day of August, 1949, it shall submit an application to the Commissioner of Income-tax giving the following particulars :—

1. Name of the industrial undertaking.
2. Status (*i.e.* whether public or private company, firm, individual or Hindu undivided family).
3. Nature of the business.
4. Date of commencement of the business.
5. Nature of the concessions granted.
6. Period for which concessions granted.
7. Unexpired period of the concessions from the 1st day of August, 1949.

(2) The application shall be accompanied by a copy of the orders of the State granting the concession or of the agreement with the State.

(3) The Commissioner shall, after obtaining such other information as he may require, forward the application to the Central Government which, having regard to all the circumstances of the case, may grant such relief, if any, as it thinks appropriate.

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[15] Inserted by Notification No. S.R.O. 943, dated the 25th November, 1950, and substituted by Notification No. S.R.O. 377, dated the 14th March, 1951.

[16] This clause was inserted by Notification No. S.R.O. 1492, dated the 20th September, 1951, and the number corrected as (*v*) by Notification No. 5, dated the 4th February, 1952.

[17] Substituted for "Ordinance" by Notification No. 22(40)—I.T.-46, dated the 11th March, 1950.

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[18][16. [19][(1)] The provisions of this Order shall, in relation to the merged States of Benares and Tehri-Garhwal, apply as if for the figures and words "31st July" in clause (*b*) of sub-paragraph (3) of paragraph 5, the figures and words "30th November" were substituted; and for the figures and words "31st day of July" and "1st day of August" wherever they occur in the Order, the figures and words "30th day of November" and "1st day of December" respectively were substituted.]

[19][(2) The provisions of this Order, in so far as they are applicable to any assessment for the year ending on the 31st day of March, 1951, and for subsequent years, shall—

(*a*) in relation to the States of Manipur, Tripura and Vindhya Pradesh, apply as if in any paragraph applicable to such States which contains the figures and words "31st day of July, 1949" or "the 1st day of August, 1949", there were substituted respectively, the figures and words "22nd day of January, 1950" or "the 23rd day of January, 1950";

(*b*) in relation to the merged territory of Cooch-Behar, apply as if in any paragraph applicable to such territory which contains the figures and words "31st day of July, 1949" or "1st day of August, 1949", there were substituted respectively the figures and words "31st day of December, 1949" or the "1st day of January, 1950".]

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[18] Added by Notification No. 22(40)—I.T.-46, dated the 11th March, 1950.

[19] Paragraph 16 was re-numbered as sub-paragraph (1) and sub-paragraph (2) was added by Notification No. 100, dated the 2nd September, 1950.

THE TAXATION LAWS (MERGED STATES) (REMOVAL OF DIFFICULTIES) ORDER, 1949

(*Notification No.* 22(40)—*I.T.*/49, *dated the* 3*rd December,* 1949*)

Whereas certain difficulties have arisen in giving effect to the provisions of the Taxation Laws (Extension to Merged States) Ordinance, 1949 (XXI of 1949);

Now, therefore, in exercise of the powers conferred by section 8 of the said Ordinance, the Central Government is pleased to make the following Order, namely:—

1. This Order may be cited as the Taxation Laws (Merged States) (Removal of Difficulties) Order, 1949.

2. **Computation of aggregate depreciation allowance and the written-down value.**—In making any assessment under the Indian Income-tax Act, 1922, all depreciation *actually allowed* under any laws or rules of a merged State relating to income-tax and super-tax, shall be taken into account in computing the aggregate depreciation allowance referred to in sub-clause (*c*) of the proviso to clause (*vi*) of sub-section (2), and the written-down value under clause (*b*) of sub-section (5), of section 10 of the said Act:

Provided that where in respect of any asset, depreciation has been allowed for any year both in the assessment made in the merged State and in British India, the greater of the two sums allowed shall only be taken into account.

3. **Treatment of property transferred in a merged State before payment of taxes.**—Section 4 of the Payment of Taxes (Transfer of Property) Act, 1949, shall not apply in relation to any property situate in a merged State which had been transferred before the 1st day of August, 1949, *or* before the date on which the Transfer of Property (Payment of Taxes) Ordinance, 1948 (III of 1948), or the Payment of Taxes (Transfer of Property) Ordinance, 1948 (XXI of 1948), or the Payment of Taxes (Transfer of Property) Act, 1949 (XXII of 1949), as the case may be, was applied to the merged State by an order under the Extra-Provincial Jurisdiction Act, 1947.

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* Published in the *Gazette of India*, Extraordinary, dated the 3rd December, 1949.

D

THE PART B STATES (TAXATION CONCESSIONS) ORDER, 1950

(*Notification No. S. R. O.* 998, *dated the* 22*nd December*, 1950[1])

In exercise of the powers conferred by section 60A of the Indian Income-tax Act, 1922 (XI of 1922), the Central Government is pleased to make the exemptions, reductions in rate of tax and the modifications specified in this Order.

2. Short title.—This Order may be cited as the Part B States (Taxation Concessions) Order, 1950.

3. Definitions.—In this Order—

(*i*) the "Act" means the Indian Income-tax Act, 1922 (XI of 1922) ;

(*ii*) "appointed day" means—

(*a*) in relation to all Part B States other than the State of Patiala and East Punjab States Union, the 1st day of April, 1950, and

(*b*) in relation to the State of Patiala and East Punjab States Union, the 13th day of April, 1950 ;

(*iii*) the expression "Indian rate of tax" means the rate determined by dividing the amount of income-tax and super-tax payable in the taxable territories on the total income for the year in question in accordance with the rates prescribed by the relevant Finance Act of the Central Government, by the amount of such total income ;

(*iv*) "State" means any Part B State other than the State of Jammu and Kashmir ;

(*v*) the expression "State rate of tax" means the rate determined by dividing the amount of income-tax and super-tax payable on the total income according to the rates of tax in force in the State immediately before the appointed day, or for the year in question, as the case may be, by the amount of such total income and where under any State law, the rates of tax in force in the State are prescribed with reference to the total income including agricultural income, the State rate of tax shall be the rate determined by dividing the amount of income-tax and super-tax on the total income including the agricultural income without taking into account any reduction of tax allowed on the agricultural income by the State law by the amount of such total income ;

Explanation.—Where there was no State law relating to charge of income-tax and super-tax, the rates of income-tax and super-tax in force in that State immediately before the appointed day shall, for the purposes of this clause, be deemed to be the rates specified in the Schedule ;

(*vi*) the expression "State law" means any law relating to income-tax or super-tax in force in the State immediately before the appointed day ;

(*vii*) the expression "taxable territories" shall have the same meaning as is assigned to it by clause (14A) of section 2 of the Act.

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[1] Published in the *Gazette of India*, Extraordinary, dated the 2nd December, 1950.

4. Scope of the main concessions.—(1) The provisions of paragraphs 5, 6, sub-paragraph (1) of paragraph 11, 12 and 13 of this Order shall apply— Div. 4 D

(*i*) in the case of an assessee who has been assessed or is assessable in the taxable territories as resident for three out of the six years of assessment commencing on the 1st day of April, 1944, and ending on the 31st day of March, 1950, to so much of the income, profits and gains included in his total income as would, had the assessee been resident also in the relevant previous year in the taxable territories other than Part B States, have been exempt under clause (*c*) of sub-section (2) of section 14 of the Act, if it had not been extended to Part B States;

(*ii*) in the case of an assessee who is resident in the previous year in the taxable territories other than Part B States, to so much of the income, profits and gains included in his total income as would have been exempt under clause (*c*) of sub-section (2) of section 14 of the Act if it had not been extended to Part B States;

(*iii*) in the case of any other assessee who is not resident in the previous year in the taxable territories or in the taxable territories other than Part B States, to so much of the income, profits and gains included in his total income as accrue or arise in any Part B State and are not deemed to accrue or arise, or are not received or deemed to be received within the meaning of clause (*a*) of sub-section (1) of section 4 of the Act, in the taxable territories other than the Part B States.

(2) The provisions of this Order shall not apply to the income chargeable under the head "Salaries" which is payable on or after the appointed day—

(*a*) by the Central Government or the Government of a Part A State to a person who was an employee of that Government immediately before the appointed day; or

(*b*) by the Government of a Part B State to a person whose services have been lent to that Government by the Central Government or the Government of a Part A State.

5. Income of a previous year chargeable in the Part B State in 1949-50.—(1) The income, profits and gains of any previous year ending *after* the 31st day of March, 1949, which is a previous year for the State assessment year 1949-50, shall be assessed under the Act for the year ending on the 31st day of March, 1951, *if and only if*, such income, profits and gains have not, before the appointed day, been assessed under the State law.

(2) Where the income, profits and gains referred to in sub-paragraph (1) have not been assessed under the State law, they shall be assessed under the Act for the year ending on the 31st day of March, 1951, and the tax payable thereon shall be determined as hereunder—

(*i*) the tax on the amount of such income, profits and gains included in the total income shall be computed at the Indian rate of tax;

(*ii*) the amount of such income, profits and gains shall be computed under the State law and the tax thereon computed at the State rate of tax in force immediately before the appointed day;

(*iii*) the amount, if any, by which the tax computed under clause (*i*) exceeds the tax computed under clause (*ii*) shall be allowed as rebate from the

Div. 4 D

first-mentioned tax, and the amount of the first-mentioned tax as so reduced shall be the tax payable:

Provided that in the case of an assessee referred to in clause (*i*) or clause (*ii*) of sub-paragraph (1) of paragraph 4 of this Order, if the whole or part of such income, profits or gains on which rebate is due or has been allowed under this paragraph—

(*a*) are brought into or received in the taxable territories other than Part B States in any subsequent year in which the assessee is resident, the rebate already allowed appropriate to the amount so brought or received shall be recovered in addition to the tax payable on the total income of that year;

(*b*) are brought into or received in any Part B State other than the State in which they accrued or arose, then—

(*i*) if they are so brought or received in the same previous year in which they accrued or arose, they shall be charged to tax as if they had accrued or arisen in that Part B State; and

(*ii*) if they are so brought or received in any subsequent year in which the assessee is resident, and if the rate at which the tax is payable by the assessee on his total income of that year is higher than the rate at which such profits had actually borne tax (after allowance of the rebate), there shall be recovered, in addition to the tax payable on his total income of that year, an amount equal to the tax on such profits at the rate representing the difference between the said two rates.

(3) In this paragraph the State assessment year 1949-50 means the assessment year which commences on any date between the 1st April, 1949, and the 31st December, 1949.

6. Income of a previous year which does not fall under paragraph 5.—The income, profits and gains of any previous year ending after the 31st day of March, 1949, which does not fall within paragraph 5 of this Order shall be assessed under the Act for the year ending on the 31st day of March, 1951, [2][or on the 31st day of March, 1952, as the case may be,] and the tax payable thereon shall be determined as hereunder:

In respect of so much of the income, profits and gains included in the total income as accrue or arise in any State other than the States of Patiala and East Punjab States Union and Travancore-Cochin—

(*i*) the tax shall be computed (*a*) at the Indian rate of tax and (*b*) at the State rate of tax in force immediately before the appointed day;

(*ii*) where the amount of tax computed under sub-clause (*a*) of clause (*i*) is less than or is equal to the amount of tax computed under sub-clause (*b*) of clause (*i*), the amount of the first-mentioned tax shall be the tax payable;

(*iii*) where the amount of tax computed under sub-clause (*a*) of clause (*i*) exceeds the tax computed under sub-clause (*b*) of clause (*i*), the excess shall be allowed as a rebate from the first-mentioned tax and the amount of the first-mentioned tax as so reduced shall be the tax payable:

[2] Inserted by Notification No. S. R. O. 977, dated the 26th June, 1951.

Provided that where the previous year falls partly before and partly on or after the 1st day of April, 1949, the tax payable under clause (*ii*) or (*iii*), as the case may be, in respect of so much of the income, profits and gains as accrue or arise in the State of Madhya Bharat or Rajasthan, shall be reduced further by an amount equal to such proportion of the tax payable as the period falling before that day bears to the whole period of the previous year : **Div. 4 D**

Provided further that in the case of an assessee referred to in clause (*i*) or clause (*ii*) of sub-paragraph (1) of paragraph 4 of this Order, if the whole or part of such income, profits or gains on which rebate is due or has been allowed under this paragraph—

(*a*) are brought into or received in the taxable territories other than Part B States in any subsequent year in which the assessee is resident, the rebate already allowed appropriate to the amount so brought or received shall be recovered in addition to the tax payable on the total income of that year ;

(*b*) are brought into or received in any Part B State other than the State in which they accrued or arose, then—

(*i*) if they are so brought or received in the same previous year in which they accrued or arose, they shall be charged to tax as if they had accrued or arisen in that Part B State ; and

(*ii*) if they are so brought or received in any subsequent year in which the assessee is resident, and if the rate at which the tax is payable by the assessee on his total income of that year is higher than the rate at which such profits had actually borne tax (after allowance of the rebate), there shall be recovered, in addition to the tax payable on his total income of that year, an amount equal to the tax on such profits at the rate representing the difference between the said two rates.

[3][6A. **Income, profits and gains chargeable to tax in the assessment years 1952-53, 1953-54 and 1954-55.**—The income, profits and gains of any previous year which is a previous year for the assessment for the year ending on the 31st day of March, 1953, 1954 and 1955, shall be charged to tax at the Indian rates of tax, provided that from the tax so computed, there shall be allowed in each year, rebate at the percentage thereof specified hereunder :

in respect of so much of the income, profits and gains as accrue or arise—

(*a*) in the States of Saurashtra, Madhya Bharat or Rajasthan, to *any assessee*, at the rate of 40 per cent, 20 per cent and 10 per cent, respectively, for the assessment for the year ending on the 31st day of March, 1953, 1954 and 1955 ;

(*b*) in the State of Mysore to *an assessee not being a company*, at the rate of 20 per cent, 10 per cent and nil, respectively, for the assessment for the year ending on the 31st day of March, 1953, 1954 and 1955 ;

(*c*) in the State of Hyderabad to *an assessee being a company*, 10 per cent, nil and nil, respectively, for the assessment for the year ending on the 31st day of March, 1953, 1954 and 1955 :

[3] Inserted by Notification No. S. R. O. 1091, dated the 15th June, 1952.

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[4][Provided that where the total income of an assessee not being a company, includes any income chargeable under the head "Salaries" as reduced by the deduction for earned income appropriate thereto, or any income chargeable under the head "Interest on securities", or any income from dividends in respect of which, by virtue of section 49B of the Act, he is deemed himself to have paid income-tax imposed by the Act, the income-tax payable by the assessee on the part of his total income which consists of such inclusions shall be an amount bearing to the total amount of income-tax payable according to the rates applicable to his total income in the immediately preceding financial year, the same proportion as the amount of such inclusions bears to his total income. And where the total income of an assessee, not being a company, includes any income chargeable under the head "Salaries" on which super-tax has been or might have been deducted under the provisions of sub-section (2) of section 18 of the Indian Income-tax Act, the super-tax payable by the assessee on that portion of his total income which consists of such inclusion shall be an amount bearing to the total amount of super-tax payable according to the rates applicable to his total income in the immediately preceding financial year, the same proportion as the amount of such inclusion bears to his total income.]

Provided further that the provisions of the second proviso to paragraph 6 of this Order shall apply to this paragraph as they apply to the said paragraph 6.]

7. Income accruing or arising without the taxable territories.— The income, profits and gains which accrue or arise without the taxable territories and are not deemed to accrue or arise, or are not received or deemed to be received within the meaning of clause (*a*) of sub-section (1) of section 4 of the Act, in the taxable territories, shall, in the case of an assessee referred to in clause (*iii*) of sub-paragraph (1) of paragraph 4 of this Order, be charged to tax for the year ending on the 31st day of March, 1951, [5][or on the 31st day of March, 1952, as the case may be,] in the same manner and to the same extent as is specified in paragraph 5 or 6 of this Order, as the case may be.

[6][**7A. Income accruing or arising without the taxable territories.**— The income, profits and gains which accrue or arise without the taxable territories, and are not deemed to accrue or arise, or are not received or deemed to be received within the meaning of clause (*a*) of sub-section (1) of section 4 of the Act, in the taxable territories, shall in the case of an assessee referred to in clause (*iii*) of sub-paragraph (1) of paragraph 4 of this order be charged to tax for the assessment for the year ending on the 31st day of March, 1953, 1954 or 1955, in the same manner and to the same extent as specified in paragraph 6A of this Order.]

8. Remittances out of earlier foreign profits.—The income, profits and gains which accrued or arose outside India before the beginning of the previous year for the assessment for the year ending on the 31st day of March, 1951, to an assessee referred in clause (*iii*) of sub-paragraph (1) of paragraph 4 of this Order, shall not be included in his total income of the previous year, in which such income, profits and gains are brought into or received in the taxable territories if they are so brought into or received before the 1st day of April, 1952.

9. Double income-tax relief.—(1) Where before the appointed day any income has been assessed in any State and also in the taxable territories other than

[4] Inserted by Notification No. S. R. O. 935, dated the 13th May, 1953.

[5] Inserted by Notification No. S. R. O. 977, dated the 26th June, 1951.

[6] Inserted by Notification No. S. R. O. 1091, dated the 15th June, 1952.

the State, double income-tax relief which would have been admissible under the Income-tax (Double Taxation Relief) (Indian States) Rules, 1939, and in the State under the corresponding Rules shall be allowed. Div. 4 D

(2) Where, before the appointed day any income has been assessed in any State or in the taxable territories other than the State, and the whole or part of such income is also assessable in the taxable territories or the State, as the case may be, the tax payable in respect of the assessment to be made shall be reduced by the amount of double income-tax relief, which would have been allowable in accordance with sub-paragraph (1).

10. **Remittances of earlier profits.**—(1) Notwithstanding anything contained in *Explanation* 4 to sub-section (1) of section 4 of the Act, the income, profits and gains brought into or received after the appointed day, in any part of the taxable territories other than the State, *shall not be charged to tax as income of the previous year in which they are so brought or received* except where—

(*i*) the assessee is a person who has been assessed or is assessable in the taxable territories as resident for three out of the six years of assessment commencing on the 1st day of April, 1944, and ending on the 31st day of March, 1950 ; and

(*ii*) such income, profits and gains—

(*a*) being assessable to any tax on income in the State had not been so assessed ; or

(*b*) being liable to be included in the taxable territories in the "total income" of the relevant year under the provisions of the Act had not been so included.

(2) Where the income, profits and gains referred to in sub-paragraph (1) are chargeable as the income of the previous year, in accordance with the provisions of that sub-paragraph, the tax payable thereon shall be determined as hereunder—

(*i*) the tax payable on the amount of such income, profits and gains included in the total income shall be computed at the Indian rate of tax ;

(*ii*) the tax payable in the State in the relevant year in which such income, profits and gains were assessable shall, if not already assessed, be computed at the State rate of tax ;

(*iii*) the tax payable in the taxable territories in the relevant year in which such income, profits and gains were assessable shall, if not already assessed, be computed at the Indian rate of tax ;

(*iv*) the sum of the taxes payable under clauses (*ii*) and (*iii*) shall be reduced by the amount of the double income-tax relief, if any, which would have been allowable in accordance with sub-paragraph (1) of paragraph 9 ;

(*v*) the amount by which the tax computed under clause (*i*) exceeds the tax computed under clause (*iv*) shall be allowed as a rebate from the first-mentioned tax, and the amount of the first-mentioned tax as so reduced shall be the tax payable.

11. **Salaries.**—(1) Where the total income of an assessee, not being a company, includes any income chargeable under the head "Salaries" which was paid before the appointed day for services rendered in a State in which there was no law relating to the charge of income-tax and super-tax, no tax shall be payable by the assessee on the amount of such inclusion.

Div. 4 D

(2) In the case of an assessee who before the appointed day was an employee of the Government of a State and whose services on or after the appointed day have been taken over or transferred to the Central Government or the Government of a Part A State, then irrespective of the place of his employment, the tax on his income chargeable under the head "Salaries" shall, in the year beginning on the 1st day of April, 1950, [7][or on the 1st day of April, 1951, as the case may be,] be deducted under sub-section (2) of section 18 of the Act, at the State rate of tax in force in the State in which he was employed immediately before the appointed day, if—

(*i*) he is not an employee of the Railway Department, and

(*ii*) the salary paid to him is based on the rates of pay and allowances which would have been applicable to him had he continued to be in the employment of the Government of the State.

12. **Dividends.**—Where the total income of an assessee chargeable to tax for the assessment for the year ending on the 31st day of March, 1951, includes any income from dividends paid by a company registered in a State in which there was no State law relating to the charge of income-tax and super-tax and the dividend is paid out of profits which were not liable to be taxed, in whole or in part, either in the State or in the taxable territories, no income-tax shall be payable by the assessee on such proportion of the dividend as the non-taxable profits of the company arising in the State bear to the total income of the company.

13. **Advance payment of tax.**—(1) The provisions of section 18A of the Act shall not operate before the 1st day of April, 1951, in respect of any income accruing or arising in any State unless the State law contained a provision corresponding thereto :

[8][Provided that nothing in this sub-paragraph shall affect any demand made or collected under section 18A of the Act before the 2nd day of December, 1950].

(2) Where the provisions of section 18A of the Act are applicable, the expression "latest previous year in respect of which he has been assessed" in clause (*a*) of sub-section (1) of the said section shall be deemed to mean the latest previous year in respect of which the assessee has been assessed either in the State or the taxable territories or in both, as the case may be :

Provided that where the income of the latest previous year in respect of which a person has been assessed in the State and in the taxable territories is to be taken in aggregate for the purposes of this paragraph, so much of such income as has been included in both the assessments shall be excluded from the aggregate.

14. **Requiring distribution of dividends by private companies.**—The provisions of section 23A of the Act shall not be applied in respect of the profits and gains of any previous year ending before the appointed day unless the State law contained a provision corresponding thereto.

15. **Exemptions.**—[9][(1)] Any income falling within the following classes shall be exempt from income-tax and super-tax and shall not be included in the total income or total world income of the person receiving them :

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[7] Inserted by Notification No. S.R.O. 977, dated the 26th June, 1951.

[8] Inserted by Notification No. S.R.O. 376, dated the 14th March, 1951.

[9] Para 15 was renumbered as sub-para (1) by Notification No. S.R.O. 1991, dated the 27th November, 1952.

(*i*) any sum which the widow or the mother of a person who was the Ruler of an Indian State receives as her maintenance allowance out of public revenues ; **Div. 4 D**

[10]* * * * * *

(*ii*) any pension paid out of public revenues which a person receives as the subordinate Chief of a person who was the Ruler of an Indian State, where such pension was payable to him in that capacity by the said Ruler immediately before the appointed day ;

[11][(*iii*) the *bona fide* annual value of the palaces of Rulers of Indian States which are declared by the Central Government as the official residences of such Rulers ;]

[12][(*iv*) the profits of any co-operative society registered under any Act in force in a Part B State, or dividends or other payments received by members of any such society out of such profits.

For this purpose, the profits of a co-operative society shall not be deemed to include any income, profits or gains from

(1) investments in (*a*) securities of the nature referred to in section 8 of the Indian Income-tax Act, or (*b*) property of the nature referred to in section 9 of that Act,

(2) dividends, or

(3) the other sources referred to in section 12 of the Indian Income-tax Act.]

[13][(2) Where an assessee is in receipt of any interest on 3½ per cent debentures 1959-62 of the Trichur Municipality on which income-tax has been paid by the said municipality at the maximum rate, such interest shall, for the purposes of any assessment for the year ending on the 31st day of March, 1951, and any subsequent year, be deemed to be interest on securities in respect of which no income-tax is payable under section 8 of the Act.]

16. **Concessions to industrial undertakings.**—(1) Where any industrial undertaking situated in any State claims that it has been granted any exemption from or concession in respect of income-tax or super-tax by the Ruler of an Indian State and was enjoying such exemption or concession immediately before the appointed day it shall submit an application to the Commissioner of Income-tax giving the following particulars :—

1. Name of the industrial undertaking.
2. Status (*i.e.*, whether public or private company, firm, individual or Hindu undivided family).
3. Nature of the business.
4. Date of commencement of the business.
5. Nature of the concessions granted.
6. Period for which concessions granted.
7. Unexpired period of the concessions after the appointed day.

(2) Every such application shall be accompanied by the orders in original of the Indian State granting the concession together with a certified copy of the order.

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[10] The proviso was omitted by Notification No. S.R.O. 1490, dated the 19th September, 1951, and shall be deemed never to have been there.

[11] Substituted by Notification No. S.R.O. 378, dated the 14th March, 1951.

[12] Added by Notification No. S.R.O. 1800, dated the 14th November, 1951.

[13] Inserted by Notification No. S.R.O. 1991, dated the 27th November, 1952.

Div. 4 D (3) The Commissioner shall, after obtaining such other information as he may require, forward the application to the Central Government which, having regard to all the circumstances of the case, may grant such relief, if any, as it thinks appropriate.

THE SCHEDULE

[*See Explanation to paragraph* 3(*v*)]

Part I

RATES OF INCOME-TAX

A. In the case of every individual, Hindu undivided family, unregistered firm and other association of persons, not being a case to which paragraph B of this part applies :—

		Rate
1.	On the first Rs. 2,000 of total income	Nil
2.	On the next Rs. 3,000 of total income	Two pies in the rupee
3.	On the next Rs. 5,000 of total income	Four pies in the rupee
4.	On the next Rs. 5,000 of total income	Nine pies in the rupee
5.	On the balance of total income	Sixteen pies in the rupee :

Provided that :—

(1) no income-tax shall be payable on total income which does not exceed Rs. 5,000 ;

(2) the income-tax payable shall in no case exceed half the amount by which the total income exceeds Rs. 5,000.

B. In the case of every company :—

	Rate
On the whole of total income	Sixteen pies in the rupee.

Part II

RATES OF SUPER-TAX

A. In the case of every individual, Hindu undivided family, unregistered firm and other association of persons, not being a case to which any other paragraph of this part applies :—

		Rate
1.	On the first Rs. 30,000 of total income	Nil
2.	On the next Rs. 10,000 of total income	One anna in the rupee
3.	On the next Rs. 30,000 of total income	One and a half annas in the rupee
4.	On the next Rs. 30,000 of total income	Two annas in the rupee
5.	On the next Rs. 50,000 of total income	Two and a half annas in the rupee
6.	On the balance of total income	Three annas in the rupee.

B. In the case of every company :—

		Rate
On the whole of total income		
1.	If the income does not exceed Rs. 25,000 on the whole of the total income	One and a half annas in the rupee
2.	If the income exceeds Rs. 25,000 on the whole of the total income	One anna in the rupee :

Provided that a rebate at the rate of 2 pies and 4 pies per rupee respectively of the total income shall be allowed in the case of any company which, in respect of its profits liable to tax for the year ending 31st day of March 1951 and 1952, has made the prescribed arrangements for the declaration and payment in the State concerned of the dividend payable out of such profits and for the deduction of super-tax from dividends in accordance with the provisions of sub-section (3D) or (3E) of section 18 of the Act.

THE TAXATION LAWS (PART B STATES) (REMOVAL OF DIFFICULTIES) ORDER, 1950

(*Notification No. S.R.O.* 999, *dated the 2nd December*, 1950[1])

Whereas certain difficulties have arisen in giving effect to the provisions of the Indian Income-tax Act, 1922 (XI of 1922), and the Payment of Taxes (Transfer of Property) Act, 1949 (XXII of 1949), in Part B States;

Now, therefore, in exercise of the powers conferred by section 12 of the Finance Act, 1950, and section 5 of the Opium and Revenue Laws (Extension of Application) Act, 1950, the Central Government is pleased to make the following Order, namely:—

1. This Order may be cited as the Taxation Laws (Part B States) (Removal of Difficulties) Order, 1950.

2. **Computation of aggregate depreciation allowance and the written-down value.**—In making any assessment under the Indian Income-tax Act, 1922, all depreciation actually allowed under any laws or rules of a Part B State relating to income-tax and super-tax, or any law relating to tax on profits of business, shall be taken into account in computing the aggregate depreciation allowance referred to in sub-clause (*c*) of the proviso to clause (*vi*) of sub-section (2) and the written-down value under clause (*b*) of sub-section (5) of section 10 of the said Act:

Provided that where in respect of any asset, depreciation has been allowed for any year both in the assessment made in the Part B State and in the taxable territories, the greater of the two sums allowed shall only be taken into account.

[2][*Explanation.*—For the purpose of this paragraph, the expression "all depreciation actually allowed under any laws or rules of a Part B State" means *and shall be deemed always to have meant* the aggregate allowance for depreciation taken into account in computing the written-down value under any laws or rules of a Part B State or carried forward under the said laws or rules.]

3. **Carry-forward and set-off of previous losses.**—Where in any previous year prior to the previous year for the assessment for the year ending on the 31st day of March, 1950, an assessee has sustained a loss of profits or gains in any business, profession or vocation carried on by him, and such loss would, had the State law continued to be in force, have been set off against the profits and gains, if any, from the same business chargeable to tax in the said year of assessment or in any year subsequent thereto, such loss would be so set off in the same manner, to the same extent, and up to the same year of assessment, as it would have been set off had the State law continued to be in force.

4. **Treatment of property transferred in a Part B State before payment of taxes.**—Section 4 of the Payment of Taxes (Transfer of Property) Act, 1949 (XXII of 1949), shall not apply in relation to any property situate in a Part B State which had been transferred before the 1st day of April, 1950, unless there was in the State any law corresponding thereto.

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[1] Published in the *Gazette of India*, Extraordinary, dated the 2nd December, 1950.

[2] Inserted by Notification No. S.R.O. 1139, dated the 8th May, 1956.

E

THE MADHYA BHARAT TAXES ON INCOME (VALIDATION) ACT, 1954

(ACT No. XXXVIII OF 1954.)

(*Received the assent of the President on the 2nd October*, 1954.)

An Act to validate the levy, assessment and collection in the State of Madhya Bharat of certain taxes on income and on profits of business due in respect of the periods referred to in sub-section (1) *of section* 13 *of the Finance Act*, 1950.

Be it enacted by Parliament in the Fifth Year of the Republic of India as follows :—

1. **Short title.**—This Act may be called the Madhya Bharat Taxes on Income (Validation) Act, 1954.

2. **Definitions.**—In this Act, unless the context otherwise requires,—

(*a*) "Finance Act" means the Finance Act, 1950 (XXV of 1950) ;

(*b*) "relevant Madhya Bharat law" means any of the following laws which may be applicable in the circumstances of a particular case, that is to say,—

(*i*) the Indore Industrial Tax Rules, 1927 ;

(*ii*) the Indore Excess Profits Duty Order, 1944 ;

(*iii*) the Gwalior War Profits Ordinance, Samvat 2001 ; and

(*iv*) any law in force immediately before the commencement of the Finance Act in that part of the State of Madhya Bharat which corresponds to the territory comprised in the former Indian State of Ratlam, in so far as such law relates to a tax on profits of business ;

(*c*) "relevant period" means either of the periods referred to in sub-section (1) of section 13 of the Finance Act, according as the tax is a tax on income or a tax on profits of business.

3. **Validation of action taken in connection with the levy, assessment and collection of certain taxes on income.**—Notwithstanding anything contained in the first proviso to sub-section (1) of section 13 of the Finance Act, all proceedings taken, assessments made and other acts and things done (including orders made) by or before any officer, authority, tribunal or court acting or purporting to act under the relevant Madhya Bharat law in connection with the levy, assessment and collection of any tax due under any such law in respect of the relevant period shall be valid and shall be deemed always to have been valid, and shall not be called in question on the ground only that such proceedings were not taken, assessments were not made or acts or things were not done by or before the corresponding officer, authority, tribunal or court referred to in the said proviso.

4. **Continuance of pending proceedings.**—If, immediately before the commencement of this Act, any proceedings of the nature referred to in section 3 are pending before any officer, authority, tribunal or court acting or purporting to act under the relevant Madhya Bharat law, such proceedings may, notwithstanding anything contained in the first proviso to sub-section (1) of section 13 of the Finance Act, be continued and completed in accordance with the provisions of the relevant Madhya Bharat law, and the provisions of the said proviso shall not apply, and shall be deemed never to have applied, in relation to any such proceedings.

F

THE TAXATION LAWS (EXTENSION TO JAMMU AND KASHMIR) ACT, 1954

(ACT NO. XLI OF 1954)

(*Received the assent of the President on the 8th October*, 1954.)

An Act to provide for the extension of certain taxation laws to the State of Jammu and Kashmir and for matters connected therewith.

Be it enacted by Parliament in the Fifth Year of the Republic of India as follows:—

1. **Short title.**—This Act may be called the Taxation Laws (Extension to Jammu and Kashmir) Act, 1954.

2. **Extension of certain taxation laws to Jammu and Kashmir.**—(1) The following Acts, namely:—

(*a*) the Sea Customs Act, 1878 (VIII of 1878),

(*b*) the Indian Income-tax Act, 1922 (XI of 1922),

(*c*) the Land Customs Act, 1924 (XIX of 1924),

(*d*) the Government Trading Taxation Act, 1926 (III of 1926),

(*e*) the Indian Tariff Act, 1934 (XXXII of 1934),

(*f*) the Central Excises and Salt Act, 1944 (I of 1944),

(*g*) the Payment of Taxes (Transfer of Property) Act, 1949 (XXII of 1949), and

(*h*) the Estate Duty Act, 1953 (XXXIV of 1953),

and all rules and orders made thereunder which are in force immediately before the commencement of this Act are hereby extended to, and shall be in force in, the State of Jammu and Kashmir.

(2) With effect from the commencement of this Act, the Acts mentioned in the Schedule shall be amended as specified in column 4 thereof.

(3) The Finance Act, 1951 (XXIII of 1951), and the First Schedule thereto, in so far as they have been made applicable in relation to income-tax and super-tax for the financial year 1954-55 by the Finance Act, 1954 (17 of 1954), shall have effect as if the words "excluding the State of Jammu and Kashmir" and the word, brackets, figure and letter "or (3E)" had been omitted from Parts I and II of the First Schedule to the Finance Act, 1951.

(4) Sections 6 and 10 of the Finance Act, 1954 (17 of 1954), which impose certain additional duties of customs and excise respectively shall apply to, and have effect in, the State of Jammu and Kashmir as they apply to, and have effect in, the rest of India.

3. **Continuance of existing duty on motor spirit for a certain period.**—The Government of the State of Jammu and Kashmir may continue to levy and collect for a period of ten years from the 14th day of May, 1954, a duty at the rate of four annas per imperial gallon, or at such other lower rate per imperial gallon as the State Government may, by notification in the Official Gazette, specify in this behalf, on all motor spirit imported into the State otherwise than in petrol tanks by a supplier in the State or by an authorised agent on his behalf.

Div. 4 F

4. Construction of references to laws not in force in Jammu and Kashmir.—Any reference in any Act mentioned in section 2 to a law which is not in force in the State of Jammu and Kashmir shall, in relation to that State, be construed as a reference to the corresponding law, if any, in force in that State.

5. Repeals.—Save as otherwise provided in section 6, the following laws are hereby repealed, namely :—

(*a*) the Matches (Excise Duty) Act, Svt. 1992 (IV of Svt. 1992),

(*b*) the Mechanical Lighters (Excise Duty) Act, Svt. 1992 (V of Svt. 1992),

(*c*) the Sugar (Excise Duty) Act, Svt. 2000 (VI of Svt. 2000),

(*d*) the Tobacco (Excise Duty) Ordinance, Svt. 2001 (V of Svt. 2001),

(*e*) the Income-tax Act, Svt. 2007 (X of Svt. 2007), and

(*f*) the Jammu and Kashmir Customs Act, Svt. 1958, with the exception of the following provisions, namely :—

(*i*) section 25 in so far as it authorises the State Government to prohibit the importation or exportation of newspapers or books as defined in the Jammu and Kashmir State Press and Publications Act of Svt. 1989,

(*ii*) sections 25A, 25B and 25C, and

(*iii*) any other provision contained in the said Act which may be necessary or relevant for the purpose of carrying into effect the provisions contained in the sections referred to in sub-clauses (*i*) and (*ii*).

6. Savings.—(1) Notwithstanding the repeal by section 5 of any of the laws referred to therein—

(*a*) the Jammu and Kashmir Customs Act, Svt. 1958, shall continue to have effect for the purposes of the levy, assessment, collection or refund of the duty on motor spirit referred to in section 3, or the levy, assessment and collection of any duty due in respect of the import or export before the 14th day of May, 1954, of any article into or from the State of Jammu and Kashmir, or for the purpose of imposing any penalty or for any other purpose whatsoever connected with or incidental to any of the purposes aforesaid ;

(*b*) the Income-tax Act, Svt. 2007 (X of Svt. 2007), shall continue to have effect for the purposes of the levy, assessment and collection of income-tax and super-tax or for the purposes of any penalty, interest, composition-fee or any other demand under that Act in respect of any period prior to the previous year for the purposes of assessment under the Indian Income-tax Act, 1922 (XI of 1922), for the year ending on the 31st day of March, 1955.

(2) Without prejudice to the provisions contained in sub-section (1) and subject thereto, section 6 of the General Clauses Act, 1897 (X of 1897), shall apply in relation to the repeal of any of the laws referred to in section 5 as if the law so repealed had been an enactment within the meaning of section 6 of that Act.

7. Construction of references in any repealed law to officers, authorities, etc.—Any reference in any law of the State of Jammu and Kashmir now repealed by this Act to an officer, authority, tribunal or court shall, for the purpose of carrying into effect the provisions contained in clause (*b*) of sub-section (1) and sub-section (2) of section 6, be construed as a reference to the corresponding

officer, authority, tribunal or court appointed or constituted by or under the corresponding Act, rule or order now extended to the State, and if any question arises as to who such corresponding officer, authority, tribunal or court is, the decision of the Central Government thereon shall be final. Div. 4 F

8. **Removal of difficulties.**—If any difficulty arises in giving effect to any of the provisions of any of the Acts, rules or orders now extended to the State of Jammu and Kashmir, the Central Government may, by order published in the official Gazette, make such provision or give such direction as appears to it to be necessary for removing the difficulty.

THE SCHEDULE

(*See section* 2(2).)

Year	No.	Short title	Amendments
1	2	3	4
	*	*	* * *
1922	XI	The Indian Income-tax Act, 1922	In section 1, for sub-section (2), substitute— "(2) It extends to the whole of India." In section 2, for clause (7A), substitute— "(7A) 'Indian company' means a company as defined in the Indian Companies Act, 1913 (VII of 1913), and includes a company formed and registered under any law in force in the merged territories or in any Part B State other than the State of Jammu and Kashmir before the extension thereto of the Indian Companies Act, 1913, and, in the case of the State of Jammu and Kashmir, any company formed and registered under any law in force in that State : provided that the registered Office of the company in all cases is in the taxable territories". In clause (8), after the words "Central Government", insert "or in the State of Jammu and Kashmir, the State Government." In clause (14A),— (*a*) in sub-clause (*d*), omit the word "and" at the end ; (*b*) after sub-clause (*e*), insert— "(*f*) as respects any period after the 12th day of April, 1954, the whole of the territory of India"; (*c*) after clause (*b*) of the proviso, insert— "(*c*) the whole of the territory of India— (*i*) as respects any period, for the purposes of sections 4A and 4B ; (*ii*) as respects any period after the 31st day of March, 1954, for any of the purposes of this Act ; and (*iii*) as respects any period included in the previous year for the purpose of making any assessment for the year ending on the 31st day of March, 1955, or for any subsequent year". In section 4, in *Explanation* 4 to sub-section (1), omit "other than the State of Jammu and Kashmir". In section 7, omit sub-section (2). In section 14, in sub-section (2),— (*i*) omit the word "or" at the end of clause (*b*) ; and (*ii*) omit clause (*c*).

Div. 4 F

Year	No.	Short title	Amendments
1	2	3	4
			In section 24, in sub-section (1),— (*i*) omit the first proviso ; and (*ii*) in the second proviso, omit the word "further". In sub-section (2), omit clause (*a*) of the proviso. In section 49A, in clause (*a*), omit the words "with the Government of the State of Jammu and Kashmir or" and for the words "in that State or in that country, as the case may be" substitute "in that country". In section 49B, in sub-section (2), omit "other than the Government of Jammu and Kashmir". In the proviso to section 60A, for the words and figures "after the 31st day of March, 1955", substitute "in the case of merged territories and Part B States other than the State of Jammu and Kashmir, after the 31st day of March, 1955, and, in the case of the State of Jammu and Kashmir, after the 31st day of March, 1959". In section 61, in sub-section (2), in clause (*iv*) (*a*), after the words "Jammu and Kashmir", insert "or before the 14th day of May, 1954, in the State of Jammu and Kashmir".
	*	*	* * *
1926	III	The Government Trading Taxation Act, 1926	In section 2, in sub-section (3), omit "and 'India' means the territory of India excluding the State of Jammu and Kashmir".
	*	*	* * *
1949	XXII	The Payment of Taxes (Transfer of Property) Act, 1949	In section 1, in sub-section (2), omit "except the State of Jammu and Kashmir". In section 2, for the words "the States", substitute "India", and omit the *Explanation*.
	*	*	* * *

G

THE CHANDERNAGORE (REMOVAL OF DIFFICULTIES IN RELATION TO TAXATION LAWS) ORDER, 1955*

(*Notification No. S.R.O.* 581, *dated the* 12*th March*, 1955)

Whereas certain difficulties have arisen in giving effect to the provisions of the Indian Income-tax Act, 1922 (XI of 1922), in Chandernagore :

Now, therefore, in exercise of the powers conferred by sec. 19 of the Chandernagore (Merger) Act, 1954 (36 of 1954), the Central Government hereby makes the following order, namely :—

1. This Order may be called the Chandernagore (Removal of Difficulties in Relation to Taxation Laws) Order, 1955.

2. **Construction of references in the repealed income-tax law to officers, authorities, etc.**—Any reference in any law corresponding to the Indian Income-tax Act, 1922 (XI of 1922), which was in force in Chandernagore immediately before the 2nd day of October, 1954, to officers, authorities, tribunals or courts shall, for the purposes of the levy, assessment, and collection of income-tax, any penalty, or any other demand under that law, be construed as a reference to the corresponding officers, authorities, tribunals or courts appointed or constituted under the Indian Income-tax Act, 1922 (XI of 1922), and if any question arises, as to who is such corresponding officer, authority, tribunal or court, the decision of the Central Government thereon shall be final.

3. **Computation of aggregate depreciation allowance and written down value.**—In making any assessment under the Indian Income-tax Act, 1922 (XI of 1922), all depreciation actually allowed under the law or rules relating to income-tax which were in force in Chandernagore before the 2nd day of October, 1954, shall be taken into account in computing the aggregate depreciation allowance referred to in sub-clause (*c*) of the proviso to clause (*vi*) of sub-section (2) and the written down value under clause (*b*) of sub-section (5) of section 10 of the Indian Income-tax Act, 1922 (XI of 1922) :

Provided that where in respect of any assessment, depreciation has been allowed for any year both in the assessment made in Chandernagore and in the taxable territories, the greater of the two sums allowed shall only be taken into account.

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* Published in the *Gazette of India*, dated the 19th March, 1955.

DIVISION 5

MISCELLANEOUS STATUTES

A

THE FINANCE ACTS

THE INDIAN FINANCE ACT, 1946

(ACT No. VII OF 1946)

(*Received the assent of the Governor-General on the 30th March*, 1946.)

1. **Short title and extent.**—(1) This Act may be called the Indian Finance Act, 1946.

(2) It extends to [1][the whole of India except [1a][the territories which, immediately before the 1st November, 1956, were comprised in Part B States]].

* * * * *

11. **Income-tax and super-tax.**—(1) Subject to the provisions of sub-sections (3), (4), (5), (6) and (7),—

(*a*) income-tax for the year beginning on the 1st day of April, 1946, shall be charged at the rates specified in Part I of the Schedule, and

(*b*) rates of super-tax for the year beginning on the 1st day of April, 1946, shall, for the purposes of section 55 of the Indian Income-tax Act, 1922 (XI of 1922), be those specified in Part II of the Schedule.

(2) In making any assessment for the year ending on the 31st day of March 1947, there shall be deducted from the total income of an assessee, in accordance with the provisions of section 15A of the Indian Income-tax Act, 1922, an amount equal to—

(*i*) one-tenth of the earned income chargeable under the head "Salaries" which is included in his total income, subject to a maximum of two thousand rupees, *plus*

(*ii*) one-fifth of the earned income other than the income chargeable under the head "Salaries" which is included in his total income :

Provided that the aggregate amount to be deducted under this sub-section shall not in any case exceed four thousand rupees.

(3) In making any assessment for the year ending on the 31st day of March, 1947,—

(*a*) where the total income of an assessee, not being a company, includes any income chargeable under the head "Salaries" as reduced by the deduction for earned income appropriate thereto, or any income chargeable under the head "Interest on securities," or any income from dividends in respect of which he is deemed under section 49B of the Indian Income-tax Act, 1922, to have paid income-tax imposed in British India, the income-tax payable by the assessee on that part of his total income which consists of such inclusions shall be an amount bearing to the total amount of income-tax payable according to the

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[1] Substituted for "all the Provinces of India" by the Adaptation of Laws Order, 1950; "all the Provinces of India" had been substituted for "the whole of British India" by the India (Adaptation of Existing Indian Laws) Order, 1947 (G.G.O. 16).

[1a] Substituted for "Part B States" by the Adaptation of Laws (No. 3) Order, 1956, with effect from the 1st November, 1956.

Div. 5 A

rates applicable under the operation of the Indian Finance Act, 1945, on his total income the same proportion as the amount of such inclusions bears to his total income;

(*b*) where the total income of an assessee, not being a company, includes any income chargeable under the head "Salaries" on which super-tax has been or might have been deducted under the provisions of sub-section (2) of Section 18 of the Indian Income-tax Act, 1922, the super-tax payable by the assessee on that portion of his total income which consists of such inclusion shall be an amount bearing to the total amount of super-tax payable according to the rates applicable under the operation of the Indian Finance Act, 1945, on his total income the same proportion as the amount of such inclusion bears to his total income.

(4) In making any assessment for the year ending on the 31st day of March, 1947, where the total income of an assessee consists partly of earned income and partly of unearned income, the super-tax payable by him shall be—

(*i*) on that part of the earned income chargeable under the head "Salaries" to which clause (*b*) of sub-section (3) applies, the amount of super-tax computed in accordance with the provisions of that clause, *plus*

(*ii*) on the remainder of the earned income, the amount which bears to the total amount of super-tax which would have been payable on his total income had it consisted wholly of earned income the same proportion as such remainder bears to his total income, *plus*

(*iii*) on the unearned income, the amount which bears to the total amount of super-tax which would have been payable on his total income had it consisted wholly of unearned income the same proportion as the unearned income bears to his total income.

(5) Where the total income of an assessee referred to in paragraph A of Part I of the Schedule does not exceed six thousand rupees and includes any income to which clause (*a*) of sub-section (3) applies, the income-tax payable by the assessee on such inclusion as computed in accordance with the provisions of that clause shall be reduced by an amount representing one rupee for every complete unit of two hundred rupees of such inclusion as reduced by the amount of income, if any, exempt under the second proviso to sub-section (1) of section 7, section 15, and sub-section (1) of section 58F, of the Indian Income-tax Act, 1922:

Provided that the reduction to be made under this sub-section shall not in any case exceed two-fifths of the income-tax otherwise payable on such inclusion:

Provided further that if there is an incomplete unit of such inclusion amounting to one hundred rupees or more, it shall for the purposes of this sub-section be reckoned as a complete unit of two hundred rupees.

(6) In making any assessment for the year ending on the 31st day of March, 1947,—

(*a*) where the total income of a company includes any profits and gains from life insurance business, the super-tax payable by the company shall be reduced by an amount computed at the rate of one anna in the rupee on that part of its total income which consists of such inclusion;

(*b*) where the total income of an assessee, not being a company, includes any profits and gains from life insurance business, the income-tax and super-tax payable by the assessee on that part of his total income which

consists of such inclusion shall be an amount bearing to the total amount of such taxes payable according to the rates applicable under the operation of the Indian Finance Act, 1942 (XII of 1942), on his total income the same proportion as the amount of such inclusion bears to his total income, so however that the aggregate of the taxes so computed in respect of such inclusion shall not in any case exceed the amount of tax payable on such inclusion at the rate of five annas in the rupee.

(7) In cases to which section 17 of the Indian Income-tax Act, 1922, applies, the tax chargeable shall be determined as provided in that section but with reference to the rates imposed by sub-section (1) of this section and in accordance, where applicable, with the provisions of sub-sections (3), (4), (5) and (6) of this section.

(8) For the purposes of making any deduction of income-tax in the year beginning on the 1st day of April, 1946, under sub-section (2) or sub-section (2B) of section 18 of the Indian Income-tax Act, 1922, from any earned income chargeable under the head "Salaries," the estimated total income of the assessee under this head shall, in computing the income-tax to be deducted, be reduced by an amount equal to one-fifth of such earned income but not exceeding in any case four thousand rupees.

(9) For the purposes of this section and of the rates of tax imposed thereby, the expression "total income" means total income as determined for the purposes of income-tax or super-tax, as the case may be, in accordance with the provisions of the Indian Income-tax Act, 1922, and the expression "earned income" has the meaning assigned to it in clause (6AA) of section 2 of that Act.

(10) If any provision is made in the Indian Income-tax Act, 1922, for the allowance of expenditure on scientific research related to the business carried on by an assessee, then any such expenditure incurred by him in the previous year for the assessment for the year ending on the 31st day of March, 1946, shall, for the purposes of that provision and in accordance therewith, be deemed to be expenditure incurred in the previous year for the assessment for the year ending on the 31st day of March, 1947, and shall be added to the amount of such expenditure, if any, in that previous year.

(11) Any sum being excess profits tax repaid in respect of any chargeable accounting period under the provisions of section 10 of the Indian Finance Act, 1942, or of section 2 of the Excess Profits Tax Ordinance, 1943 (XVI of 1943), shall be deemed to be income for the purposes of the Indian Income-tax Act, 1922, and shall, notwithstanding the provisions of section 34 of that Act, be treated as income of the previous year which constitutes or includes the chargeable accounting period in respect of which the said sum is repayable :

Provided that any such sum repaid in respect of any profits which are also assessable to excess profits tax under the law in force in the United Kingdom shall be treated, for the purpose of assessment to income-tax and super-tax, as income of the previous year during which the repayment is made.

(12) The Income-tax Officer shall calculate the amount of income-tax and super-tax payable in respect of each sum referred to in sub-section (11), and such amount shall be deducted from the said sum at the time that it is repaid, and where the regular assessment proceedings for the appropriate assessment year are not complete, the tax so deducted shall be treated as a payment of income-tax or super-tax, as the case may be, for the purposes of sub-section (5) of section 18 of the Indian Income-tax Act, 1922 :

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[2][Provided that where, subsequent to any repayment made under the provisions of section 10 of the Indian Finance Act, 1942 (XII of 1942), or section 2 of the Excess Profits Tax Ordinance, 1943 (XVI of 1943), a reduction in the excess profits tax is effected whether by relief given in respect of a deficiency of profits, or by relief given in respect of a double excess profits tax, or by an order passed in any appeal, or otherwise, the sum to be refunded to the assessee on account of such reduction shall be decreased by such proportion thereof as the amount already repaid bore to the excess profits tax before the reduction as aforesaid.]

(13) Any person objecting to the amount of a deduction made under sub-section (12) may appeal to the Appellate Assistant Commissioner within thirty days of the receipt of the repayment order, and the provisions of sections 30, 31 and 33 of the Indian Income-tax Act, 1922, shall apply as if such appeal were an appeal under the first mentioned section.

(14) Where under the provisions of sub-section (2) of section 12 of the Excess Profits Tax Act, 1940 (XV of 1940), excess profits tax payable under the law in force in the United Kingdom has been deducted in computing for the purposes of income-tax and super-tax the profits and gains of any business, the amount of any repayment under sub-section (1) of section 28 of the Finance Act, 1941 (4 & 5 Geo. 6, c. 30), as amended by section 37 of the Finance Act, 1942 (5 & 6 Geo. 6, c. 21), in respect of those profits, shall be deemed to be income for the purposes of the Indian Income-tax Act, 1922, and shall, for the purpose of assessment to income-tax and super-tax, be treated as income of the previous year during which the repayment is made.

12. Excess profits tax.—If any provision is made in clause (*vi*) of sub-section (2) of section 10 of the Indian Income-tax Act, 1922 (XI of 1922), to allow in respect of depreciation a further sum which is not deductible in determining the written down value, then such sum shall not be included in the allowances made in computing profits for the purposes of the Excess Profits Tax Act, 1940 (XV of 1940).

* * * * *

THE SCHEDULE

(See section 11)

Part I

RATES OF INCOME-TAX

A. In the case of every individual, Hindu undivided family, unregistered firm and other association of persons, not being a case to which paragraph B of this Part applies—

		Rate
1.	On the first Rs. 1,500 of total income	Nil
2.	On the next Rs. 3,500 of total income	One anna in the rupee
3.	On the next Rs. 5,000 of total income	Two annas in the rupee
4.	On the next Rs. 5,000 of total income	Three and a half annas in the rupee
5.	On the balance of total income	Five annas in the rupee :

Provided that—

(*i*) no income-tax shall be payable on a total income which, before deduction of the allowance, if any, for earned income, does not exceed Rs. 2,000 ;

[2] Inserted by s. 25 of the Taxation Laws (Extension to Merged States and Amendment) Act, 1949 (67 of 1949).

(*ii*) the income-tax payable shall in no case exceed half the amount by which the total income (before deduction of the said allowance, if any, for earned income) exceeds Rs. 2,000; **Div. 5 A**

(*iii*) the income-tax payable on the total income as reduced by the allowance for earned income shall not exceed either—

(*a*) a sum bearing to half the amount by which the total income (before deduction of the allowance for earned income) exceeds Rs. 2,000 the same proportion as such reduced total income bears to the unreduced total income, or

(*b*) the income-tax payable on the income so reduced at the rates specified in this Schedule,

whichever is less.

B. In the case of every company and local authority, and in every case in which under the provisions of the Indian Income-tax Act, 1922, income-tax is to be charged at the maximum rate—

	Rate
On the whole of total income	Five annas in the rupee.

Part II

RATES OF SUPER-TAX

A. In the case of every individual, Hindu undivided family, unregistered firm and other association of persons, not being a case to which paragraph B or paragraph C or paragraph D of this Part applies—

		Rate, if income wholly earned	*Rate, if income wholly unearned*
1.	On the first Rs. 25,000 of total income	Nil	Nil
2.	On the next Rs. 10,000 of total income ..	Two annas in the rupee	Three annas in the rupee
3.	On the next Rs. 10,000 of total income ..	Three annas in the rupee	Four annas in the rupee
4.	On the next Rs. 15,000 of total income ..	Four annas in the rupee	Five annas in the rupee
5.	On the next Rs. 20,000 of total income ..	Five annas in the rupee	Six annas in the rupee
6.	On the next Rs. 30,000 of total income	Six annas in the rupee	Seven annas in the rupee
7.	On the next Rs. 40,000 of total income ..	Seven annas in the rupee	Eight annas in the rupee
8.	On the next Rs. 50,000 of total income ..	Eight annas in the rupee	Nine annas in the rupee
9.	On the next Rs. 50,000 of total income ..	Nine annas in the rupee	Nine and a half annas in the rupee
10.	On the next Rs. 1,00,000 of total income ..	Nine and a half annas in the rupee	Ten annas in the rupee
11.	On the next Rs. 1,50,000 of total income ..	Ten annas in the rupee	Ten and a half annas in the rupee
12.	On the balance of total income	Ten and a half annas in the rupee	Ten and a half annas in the rupee.

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B. In the case of every local authority—

	Rate
On the whole of total income	One anna in the rupee.

C. In the case of an association of persons being a co-operative society, other than the Sanikatta Saltowners' Society in the [3][Bombay Presidency], for the time being registered under the Co-operative Societies Act, 1912, or under an Act of the [4][State] Legislature governing the registration of co-operative societies—

		Rate
1.	On the first Rs. 25,000 of total income	Nil
2.	On the balance of total income ..	One anna in the rupee.

D. In the case of every company—

	Rate
On the whole of total income	One anna in the rupee,

and in addition, in respect of that part of the total income (as reduced by the amount of dividends payable at a fixed rate) which does not exceed the amount of dividends, not being dividends payable at a fixed rate, declared in British India in respect of the whole or part of the previous year for the assessment for the year ending on the 31st day of March, 1947,—

on the amount by which such part—

	Rate
(*a*) exceeds 30 per cent, but does not exceed 40 per cent, of the total income as so reduced	Two annas in the rupee
(*b*) exceeds 40 per cent, but does not exceed 45 per cent, of the total income as so reduced	Three annas in the rupee
(*c*) exceeds 45 per cent, but does not exceed 50 per cent, of the total income as so reduced	Four annas in the rupee
(*d*) exceeds 50 per cent, but does not exceed 55 per cent, of the total income as so reduced	Five annas in the rupee
(*e*) exceeds 55 per cent, but does not exceed 60 per cent, of the total income as so reduced	Six annas in the rupee
(*f*) exceeds 60 per cent of the total income as so reduced	Seven annas in the rupee :

Provided that—

(*i*) no additional super-tax shall be payable where such part is less than, or equal to, five per cent on the capital of the company ;

(*ii*) where such part is more than five per cent on the capital of the company, the additional super-tax payable shall be reduced by the amount of additional super-tax which would, but for the provisions of clause (*i*) of this proviso, have been payable had such part been equal to five per cent on the capital of the company ;

(*iii*) where any dividends (not being dividends payable at a fixed rate) have been declared before the 1st day of March, 1946, in respect of the whole or part of the previous year for the assessment for the year ending on the 31st day of March, 1947, and the amount of super-tax computed at the

[3] These words would now mean "State of Bombay", though the necessary amendment has not been made by the Adaptation of Laws Order, 1950.

[4] Substituted for "Provincial" by the Adaptation of Laws Order, 1950.

rates set out in this paragraph exceeds the amount of super-tax which would be payable by the company at the rate specified in the Indian Finance Act, 1945, such proportion of the amount of super-tax computed under this paragraph as the amount of dividends declared before the 1st day of March, 1946, bears to the total amount of dividends declared in respect of the said previous year (not being dividends payable at a fixed rate) shall be so reduced as not to exceed the same proportion of the super-tax computed at the rate specified in the Indian Finance Act, 1945;

(*iv*) the additional super-tax shall be payable only by a company in which the public are substantially interested within the meaning of the *Explanation* to sub-section (1) of section 23A of the Indian Income-tax Act, 1922, or a subsidiary company of such a company where the whole of the share capital of such subsidiary company is held by the parent company or by the nominees thereof.

Explanation.—For the purposes of this paragraph,—

(*a*) the expression "capital of the company" shall be deemed to mean the paid up share capital at the beginning of the previous year for the assessment for the year ending on the 31st day of March, 1947, (other than capital entitled to a dividend at a fixed rate) plus any reserves other than depreciation reserves and reserves for bad or doubtful debts at the same date as diminished by the amount on deposit on the same date with the Central Government under section 10 of the Indian Finance Act, 1942, or section 2 of the Excess Profits Tax Ordinance, 1943;

(*b*) the expression "dividend" shall be deemed to include any distribution included in the expression "dividend" as defined in clause (6A) of section 2 of the Indian Income-tax Act, 1922, and any such distribution made during the year ending on the 31st day of March, 1947, shall be deemed to have been made in respect of the whole or part of the previous year;

(*c*) where any portion of the profits and gains of a company is not included in its total income, by reason of such portion being exempt from tax under any provision of the Indian Income-tax Act, 1922, the capital of the company, the total amount of dividends and the amount of dividends payable at a fixed rate shall each be deemed to be the proportion thereof that the total income of the company bears to its total profits and gains.

THE INDIAN FINANCE ACT, 1947

(ACT No. XX OF 1947)

(*Received the assent of the Governor-General on the 31st March, 1947.*)

1. Short title and extent.—(1) This Act may be called the Indian Finance Act, 1947.

(2) It extends to [1][the whole of India except [1a][the territories which, immediately before the 1st November, 1956, were comprised in Part B States]].

* * * * *

6. Income-tax and super-tax.—(1) Subject to the provisions of sub-sections (3), (4), (5) and (6), for the year beginning on the 1st day of April, 1947,—

(*a*) income-tax shall be charged at the rates specified in Part I of the Schedule, and

(*b*) rates of super-tax shall, for the purposes of section 55 of the Indian Income-tax Act, 1922, be those specified in Part II of the Schedule.

(2) In making any assessment for the year ending on the 31st day of March, 1948, there shall be deducted from the total income of an assessee, in accordance with the provisions of section 15A of the Indian Income-tax Act, 1922, an amount equal to one-fifth of the earned income, if any, included in his total income, but not exceeding in any case four thousand rupees.

(3) In making any assessment for the year ending on the 31st day of March, 1948,—

(*a*) where the total income of an assessee, not being a company, includes any income chargeable under the head "Salaries" as reduced by the deduction for earned income appropriate thereto, or any income chargeable under the head "Interest on securities," or any income from dividends in respect of which he is deemed under section 49B of the Indian Income-tax Act, 1922, to have paid income-tax imposed in British India, the income-tax payable by the assessee on that part of his total income which consists of such inclusions shall be an amount bearing to the total amount of income-tax payable according to the rates applicable under the operation of the Indian Finance Act, 1946, on his total income the same proportion as the amount of such inclusions bears to his total income ;

(*b*) where the total income of an assessee, not being a company, includes any income chargeable under the head "Salaries" on which super-tax has been or might have been deducted under the provisions of sub-section (2) of section 18 of the Indian Income-tax Act, 1922, the

[1] Substituted for "all the Provinces of India" by the Adaptation of Laws Order, 1950; "all the Provinces of India" had been substituted for "the whole of British India" by the India (Adaptation of Existing Indian Laws) Order, 1947 (G. G. O. 16).

[1a] Substituted for "Part B States" by the Adaptation of Laws (No. 3) Order, 1956, with effect from the 1st November, 1956.

super-tax payable by the assessee on that portion of his total income which consists of such inclusion shall be an amount bearing to the total amount of super-tax payable according to the rates applicable under the operation of the Indian Finance Act, 1946, on his total income the same proportion as the amount of such inclusion bears to his total income.

(4) In making any assessment for the year ending on the 31st day of March, 1948, where the total income of an assessee consists partly of earned income and partly of unearned income, the super-tax payable by him shall be—

(*i*) on that part of the earned income chargeable under the head "Salaries" to which clause (*b*) of sub-section (3) applies, the amount of super-tax computed in accordance with the provisions of that sub-section, *plus*

(*ii*) on the remainder of the earned income, the amount which bears to the total amount of super-tax which would have been payable on his total income had it consisted wholly of earned income the same proportion as such remainder bears to his total income, *plus*

(*iii*) on the unearned income, the amount which bears to the total amount of super-tax which would have been payable on his total income had it consisted wholly of unearned income the same proportion as the unearned income bears to his total income.

(5) In making any assessment for the year ending on the 31st day of March, 1948,—

(*a*) where the total income of a company includes any profits and gains from life insurance business, the super-tax payable by the company shall be reduced by an amount computed at the rate of two annas in the rupee on that part of its total income which consists of such inclusion;

(*b*) where the total income of an assessee, not being a company, includes any profits and gains from life insurance business, the income-tax and super-tax payable by the assessee on that part of his total income which consists of such inclusion shall be an amount bearing to the total amount of such taxes payable according to the rates applicable under the operation of the Indian Finance Act, 1942, on his total income the same proportion as the amount of such inclusion bears to his total income, so however that the aggregate of the taxes so computed in respect of such inclusion shall not in any case exceed the amount of tax payable on such inclusion at the rate of five annas in the rupee.

(6) In cases to which section 17 of the Indian Income-tax Act, 1922, applies, the tax chargeable shall be determined as provided in that section but with reference to the rates imposed by sub-section (1), and in accordance, where applicable, with the provisions of sub-sections (3), (4) and (5) of this section.

(7) For the purposes of making any deduction of income-tax in the year beginning on the 1st day of April, 1947, under sub-section (2) or sub-section (2B) of section 18 of the Indian Income-tax Act, 1922, from any earned income chargeable under the head "Salaries," the estimated total income of the assessee under this head shall, in computing the income-tax to be deducted, be reduced by an amount equal to one-fifth of such earned income, but not exceeding in any case four thousand rupees.

Div. 5 A

(8) For the purposes of this section and of the rates of tax imposed thereby, the expression "total income" means total income as determined for the purposes of income-tax or super-tax, as the case may be, in accordance with the provisions of the Indian Income-tax Act, 1922, and the expression "earned income" has the meaning assigned to it in clause (6AA) of section 2 of that Act.

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THE SCHEDULE

(See section 6)

Part I

RATES OF INCOME-TAX

A. In the case of every individual, Hindu undivided family, unregistered firm and other association of persons, not being a case to which paragraph B of this Part applies—

		Rate
1.	On the first Rs. 1,500 of total income	Nil
2.	On the next Rs. 3,500 of total income	One anna in the rupee
3.	On the next Rs. 5,000 of total income	Two annas in the rupee
4.	On the next Rs. 5,000 of total income	Three and a half annas in the rupee
5.	On the balance of total income	Five annas in the rupee :

Provided that—

(*i*) no income-tax shall be payable on a total income which, before deduction of the allowance, if any, for earned income, does not exceed Rs. 2,500 ;

(*ii*) the income-tax payable shall in no case exceed half the amount by which the total income (before deduction of the said allowance, if any, for earned income) exceeds Rs. 2,500 ;

(*iii*) the income-tax payable on the total income as reduced by the allowance for earned income shall not exceed either—

(*a*) a sum bearing to half the amount by which the total income (before deduction of the allowance for earned income) exceeds Rs. 2,500 the same proportion as such reduced total income bears to the unreduced total income, or

(*b*) the income-tax payable on the income so reduced at the rates herein specified,—

whichever is less.

B. In the case of every company and local authority, and in every case in which under the provisions of the Indian Income-tax Act, 1922, income-tax is to be charged at the maximum rate—

	Rate
On the whole of total income	Five annas in the rupee.

Part II **Div. 5 A**

RATES OF SUPER-TAX

A. In the case of every individual, Hindu undivided family, unregistered firm and other association of persons, not being a case to which any other paragraph of this Part applies—

		Rate, if income wholly earned	*Rate, if income wholly unearned*
1.	On the first Rs. 25,000 of total income ..	Nil	Nil
2.	On the next Rs. 5,000 of total income ..	Two annas in the rupee	Three annas in the rupee
3.	On the next Rs. 5,000 of total income ..	Two and a half annas in the rupee	Three and a half annas in the rupee
4.	On the next Rs. 10,000 of total income ..	Three annas in the rupee	Four annas in the rupee
5.	On the next Rs. 10,000 of total income ..	Four annas in the rupee	Five annas in the rupee
6.	On the next Rs. 10,000 of total income ..	Five annas in the rupee	Six annas in the rupee
7.	On the next Rs. 10,000 of total income ..	Six annas in the rupee	Seven annas in the rupee
8.	On the next Rs. 15,000 of total income ..	Seven annas in the rupee	Eight annas in the rupee
9.	On the next Rs. 15,000 of total income ..	Eight annas in the rupee	Nine annas in the rupee
10.	On the next Rs. 15,000 of total income ..	Nine annas in the rupee	Ten annas in the rupee
11.	On the next Rs. 30,000 of total income ..	Ten annas in the rupee	Ten and a half annas in the rupee
12.	On the balance of total income	Ten and a half annas in the rupee	Ten and a half annas in the rupee.

B. In the case of every local authority—

	Rate
On the whole of total income	Two annas in the rupee.

C. In the case of an association of persons being a co-operative society, other than the Sanikatta Saltowners' Society in the [2][Bombay Presidency], for the time being registered under the Co-operative Societies Act, 1912, or under an Act of a [3][State] Legislature governing the registration of co-operative societies—

		Rate
1.	On the first Rs. 25,000 of total income	Nil
2.	On the balance of total income	Two annas in the rupee.

D. In the case of every company—

	Rate
On the whole of total income	Two annas in the rupee,

and in addition, in respect of that part of the total income (as reduced by the amount of dividends payable at a fixed rate) which does not exceed the amount of

[2] These words would now mean "State of Bombay", though the necessary amendment has not been made by the Adaptation of Laws Order, 1950.

[3] Substituted for "Provincial" by the Adaptation of Laws Order, 1950.

Div. 5 A dividends, not being dividends payable at a fixed rate, declared in British India in respect of the whole or part of the previous year for the assessment for the year ending on the 31st day of March, 1948,—

on the amount by which such part—

	Rate
(*a*) exceeds 30 per cent, but does not exceed 40 per cent, of the total income as so reduced	Three annas in the rupee
(*b*) exceeds 40 per cent, but does not exceed 50 per cent, of the total income as so reduced	Five annas in the rupee
(*c*) exceeds 50 per cent of the total income as so reduced	Seven annas in the rupee :

Provided that—

(*i*) no additional super-tax shall be payable where such part is less than, or equal to, five per cent on the capital of the company ;

(*ii*) where such part is more than five per cent on the capital of the company, the additional super-tax payable shall be reduced by the amount of additional super-tax which would, but for the provisions of clause (*i*) of this proviso, have been payable had such part been equal to five per cent on the capital of the company ;

(*iii*) the additional super-tax shall be payable only by a company in which the public are substantially interested within the meaning of the *Explanation* to sub-section (1) of section 23A of the Indian Income-tax Act, 1922, or a subsidiary company of such a company where the whole of the share capital of such subsidiary company is held by the parent company or by the nominees thereof.

Explanation.—For the purposes of this paragraph,—

(*a*) the expression "capital of the company" shall be deemed to mean the paid up share capital at the beginning of the previous year for the assessment for the year ending on the 31st day of March, 1948 (other than capital entitled to a dividend at a fixed rate), plus any reserves other than depreciation reserves and reserves for bad or doubtful debts at the same date as diminished by the amount of deposit on the same date with the Central Government under section 10 of the Indian Finance Act, 1942, or section 2 of the Excess Profits Tax Ordinance, 1943 ;

(*b*) the expression "dividend" shall be deemed to include any distribution included in that expression as defined in clause (6A) of section 2 of the Indian Income-tax Act, 1922, and any such distribution made during the year ending on the 31st day of March, 1948, shall be deemed to have been made in respect of the whole or part of the previous year ;

(*c*) where any portion of the profits and gains of a company is not included in its total income, by reason of such portion being exempt from tax under any provision of the Indian Income-tax Act, 1922, the capital of the company, the total amount of dividends and the amount of dividends payable at a fixed rate shall each be deemed to be the proportion thereof that the total income of the company bears to its total profits and gains.

THE INDIAN FINANCE ACT, 1948

(ACT No. XX OF 1948)

(*Received the assent of the Governor-General on the 30th March*, 1948.)

1. Short title and extent.—(1) This Act may be called the Indian Finance Act, 1948.

(2) It extends to [1][the whole of India except [1a][the territories which, immediately before the 1st November, 1956, were comprised in Part B States]].

* * * * *

9. Income-tax and super-tax.—(1) Subject to the provisions of sub-sections (3), (4), (5) and (6), for the year beginning on the 1st day of April, 1948,—

(*a*) income-tax shall be charged at the rates specified in Part I of the Second Schedule to this Act, and

(*b*) rates of super-tax shall, for the purposes of section 55 of the Indian Income-tax Act, 1922 (hereafter in this section referred to as "the Income-tax Act"), be those specified in Part II of the Second Schedule to this Act.

(2) In making any assessment for the year ending on the 31st day of March, 1949, there shall be deducted from the total income of an assessee, in accordance with the provisions of section 15A of the Income-tax Act, an amount equal to one-fifth of the earned income, if any, included in his total income, but not exceeding in any case four thousand rupees.

(3) In making any assessment for the year ending on the 31st day of March, 1949,—

(*a*) where the total income of an assessee, not being a company, includes any income chargeable under the head "Salaries" as reduced by the deduction for earned income appropriate thereto, or any income chargeable under the head "Interest on securities" or any income from dividends in respect of which he is deemed under section 49B of the Income-tax Act to have paid income-tax imposed in British India, the income-tax payable by the assessee on that part of his total income which consists of such inclusions shall be an amount bearing to the total amount of income-tax payable according to the rates applicable under the operation of the Indian Finance Act, 1947, on his total income the same proportion as the amount of such inclusions bears to his total income;

(*b*) where the total income of an assessee, not being a company, includes any income chargeable under the head "Salaries" on which super-tax has been or might have been deducted under the provisions of sub-section (2) of section 18 of the Income-tax Act, the super-tax payable by the assessee on that portion of his total income which consists of such inclusion shall be an amount bearing to the total amount of super-tax payable, according to the rates applicable under the operation of the Indian Finance Act, 1947, on his total income the same proportion as the amount of such inclusion bears to his total income.

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[1] Substituted for "all the Provinces of India" by the Adaptation of Laws Order, 1950.

[1a] Substituted for "Part B States" by the Adaptation of Laws (No. 3) Order, 1956, with effect from the 1st November, 1956.

Div. 5 A (4) In making any assessment for the year ending on the 31st day of March, 1949, where the total income of an assessee consists partly of earned income and partly of unearned income, the super-tax payable by him shall be—

(*i*) on that part of the earned income chargeable under the head "Salaries" to which clause (*b*) of sub-section (3) applies, the amount of super-tax computed in accordance with the provisions of that sub-section, *plus*

(*ii*) on the remainder of the earned income, the amount which bears to the total amount of super-tax which would have been payable on his total income had it consisted wholly of earned income the same proportion as such remainder bears to his total income, *plus*

(*iii*) on the unearned income, the amount which bears to the total amount of super-tax which would have been payable on his total income had it consisted wholly of unearned income the same proportion as the unearned income bears to his total income.

(5) In making any assessment for the year ending on the 31st day of March, 1949,—

(*a*) where the total income of a company includes any profits and gains from life insurance business, the super-tax payable by the company shall be reduced by an amount computed at the rate of two annas in the rupee on that part of its total income which consists of such inclusion;

(*b*) where the total income of an assessee, not being a company, includes any profits and gains from life insurance business, the income-tax and super-tax payable by the assessee on that part of his total income which consists of such inclusion shall be an amount bearing to the total amount of such taxes payable according to the rates applicable under the operation of the Indian Finance Act, 1942, on his total income the same proportion as the amount of such inclusion bears to his total income, so however that the aggregate of the taxes so computed in respect of such inclusion shall not in any case exceed the amount of tax payable on such inclusion at the rate of five annas in the rupee.

(6) In cases to which section 17 of the Income-tax Act applies, the tax chargeable shall be determined as provided in that section, but with reference to the rates imposed by sub-section (1), and in accordance, where applicable, with the provisions of sub-sections (3), (4) and (5) of this section.

(7) For the purposes of making any deduction of income-tax in the year beginning on the 1st day of April, 1948, under sub-section (2) or sub-section (2B) of section 18 of the Income-tax Act from any earned income chargeable under the head "Salaries", the estimated total income of the assessee under this head shall, in computing the income-tax to be deducted, be reduced by an amount equal to one-fifth of such earned income, but not exceeding in any case four thousand rupees; but no abatement shall be allowed by the person responsible for paying the salary in respect of any donations made by the assessee to which section 15B of the Income-tax Act is or may be applicable.

(8) For the purposes of this section and of the rates of tax imposed thereby, the expression "total income" means total income as determined for the purposes of income-tax or super-tax, as the case may be, in accordance with the provisions of the Income-tax Act, and the expression "earned income" has the meaning assigned to it in clause (6AA) of section 2 of that Act. Div. 5 A

* * * * *

11. Business profits tax.—(1) The tax imposed by section 4 of the Business Profits Tax Act, 1947, shall, in respect of any chargeable accounting period beginning after the 31st day of March, 1947, be an amount equal to ten per cent of the taxable profits.

(2) For the purposes of the said Act, "abatement" shall mean, in respect of any chargeable accounting period beginning after the 31st day of March, 1947, a sum which bears—

(*a*) in the case of a company not being a company deemed for the purposes of section 9 of the said Act to be a firm, to a sum equal to six per cent of the capital of the company on the first day of the said period, computed in accordance with Schedule II to the said Act, or two lakhs of rupees, whichever is greater, or

(*b*) in any other case, to two lakhs of rupees,

the same proportion as the said period bears to the period of one year.

* * * * *

THE SECOND SCHEDULE

(See section 9)

Part I

RATES OF INCOME-TAX

A. In the case of every individual, Hindu undivided family, unregistered firm and other association of persons, not being a case to which paragraph B, C or D of this Part applies—

		Rate
1.	On the first Rs. 1,500 of total income	Nil
2.	On the next Rs. 3,500 of total income	One anna in the rupee
3.	On the next Rs. 5,000 of total income	Two annas in the rupee
4.	On the next Rs. 5,000 of total income	Three and a half annas in the rupee
5.	On the balance of total income	Five annas in the rupee :

Div. 5 A

Provided that—

(*i*) no income-tax shall be payable on a total income which, before deduction of the allowance, if any, for earned income, does not exceed Rs. 3,000 ;

(*ii*) the income-tax payable shall in no case exceed half the amount by which the total income (before deduction of the said allowance, if any, for earned income) exceeds Rs. 3,000 ;

(*iii*) the income-tax payable on the total income as reduced by the allowance for earned income shall not exceed either—

(*a*) a sum bearing to half the amount by which the total income (before deduction of the allowance for earned income) exceeds Rs. 3,000 the same proportion as such reduced total income bears to the unreduced total income, or

(*b*) the income-tax payable on the income so reduced at the rates herein specified,—

whichever is less.

B. In the case of every company, not being a company to which paragraph C of this Part applies—

	Rate
On the whole of total income	Five annas in the rupee :

Provided that in the case of an Indian company—

(*a*) where the total income, as reduced by seven annas in the rupee and by the amount, if any, exempt from income-tax, exceeds the amount of any dividends (including dividends payable at a fixed rate) declared in respect of the whole or part of the previous year for the assessment for the year ending on the 31st day of March, 1949, and no order has been made under sub-section (1) of section 23A of the Indian Income-tax Act, 1922, a rebate shall be allowed at the rate of one anna per rupee on the amount of such excess ;

(*b*) where the amount of dividends referred to in clause (*a*) above exceeds the total income as reduced by seven annas in the rupee and by the amount, if any, exempt from income-tax, there shall be charged on the total income an additional income-tax equal to the sum, if any, by which the aggregate amount of income-tax actually borne by such excess (hereinafter referred to as "the excess dividend") falls short of the amount calculated at the rate of five annas per rupee on the excess dividend ; and

(*c*) the income-tax payable, after deducting any rebate permissible under clause (*a*), but without including any additional income-tax chargeable under clause (*b*), shall not exceed the aggregate of—

(*i*) the income-tax which would have been payable under the provisions of paragraph C of this Part if the total income had been Rs. 25,000 and

(*ii*) half the amount by which the total income exceeds Rs. 25,000.

For the purposes of clause (*b*) of the above proviso, the aggregate amount of income-tax actually borne by the excess dividend shall be determined as follows :— Div. 5 A

(*i*) the excess dividend shall be deemed to be out of the whole or such portion of the undistributed profits of one or more years immediately preceding the previous year as would be just sufficient to cover the amount of the excess dividend and as have not likewise been taken into account to cover an excess dividend of a preceding year ;

(*ii*) such portion of the excess dividend as is deemed to be out of the undistributed profits of each of the said years shall be deemed to have borne tax—

(*a*) if an order has been made under sub-section (1) of section 23A of the Indian Income-tax Act, 1922, in respect of the undistributed profits of that year, at the rate of five annas in the rupee, and

(*b*) in respect of any other year, at the rate applicable to the total income of the company for that year reduced by the rate at which rebate, if any, was allowed on the undistributed profits.

C. In the case of every Indian company the total income of which does not exceed Rs. 25,000—

	Rate
On the whole of total income	Two and a half annas in the rupee :

Provided that where the total income, as reduced by four and a half annas in the rupee and by the amount, if any, exempt from income-tax, exceeds the amount of any dividends (including dividends payable at a fixed rate) declared in respect of the whole or part of the previous year for the assessment for the year ending on the 31st day of March, 1949, and no order has been made under sub-section (1) of section 23A of the Indian Income-tax Act, 1922, a rebate shall be allowed at the rate of half anna per rupee on the amount of such excess.

D. In the case of every local authority and in every case in which, under the provisions of the Indian Income-tax Act, 1922, income-tax is to be charged at the maximum rate—

	Rate
On the whole of total income	Five annas in the rupee.

Explanation.—For the purposes of this Part,—

(*a*) the expression "dividend" shall be deemed to include any distribution included in that expression as defined in clause (6A) of section 2 of the Indian Income-tax Act, 1922, and any such distribution made during the year ending on the 31st day of March, 1949, shall be deemed to have been made in respect of the whole or part of the previous year ;

(*b*) the expression "Indian company" shall have the meaning assigned to it in clause (7A) of section 2 of the Indian Income-tax Act, 1922.

Div. 5 A

Part II

RATES OF SUPER-TAX

A. In the case of every individual, Hindu undivided family, unregistered firm and other association of persons, not being a case to which any other paragraph of this Part applies—

		Rate, if income wholly earned	*Rate, if income wholly unearned*
1.	On the first Rs. 25,000 of total income ..	Nil	Nil
2.	On the next Rs. 15,000 of total income ..	Two annas in the rupee	Three annas in the rupee
3.	On the next Rs. 15,000 of total income ..	Three annas in the rupee	Four and a half annas in the rupee
4.	On the next Rs. 15,000 of total income ..	Five annas in the rupee	Six annas in the rupee
5.	On the next Rs. 15,000 of total income ..	Six annas in the rupee	Seven annas in the rupee
6.	On the next Rs. 15,000 of total income ..	Six and a half annas in the rupee	Eight annas in the rupee
7.	On the next Rs. 50,000 of total income ..	Seven annas in the rupee	Nine annas in the rupee
8.	On the next Rs. 1,00,000 of total income ..	Nine and a half annas in the rupee	Nine and a half annas in the rupee
9.	On the next Rs. 1,00,000 of total income ..	Ten annas in the rupee	Ten annas in the rupee
10.	On the balance of total income	Ten and a half annas in the rupee	Ten and a half annas in the rupee.

B. In the case of every local authority—

	Rate
On the whole of total income	Two annas in the rupee.

C. In the case of an association of persons being a co-operative society, other than the Sanikatta Saltowners' Society in the [2][Bombay Presidency], for the time being registered under the Co-operative Societies Act, 1912, or under an Act of a [3][State] Legislature governing the registration of co-operative societies—

		Rate
1.	On the first Rs. 25,000 of total income	Nil
2.	On the balance of total income	Two annas in the rupee.

D. In the case of every company—

	Rate
On the whole of total income	Three annas in the rupee :

Provided that a rebate at the rate of one anna per rupee of the total income shall be allowed in the case of any company which, in respect of its profits liable to tax under the Indian Income-tax Act, 1922, for the year ending on the 31st day of March, 1949, has made the prescribed arrangements—

(*a*) for the declaration and payment in the Provinces of India of the dividend payable out of such profits, and

(*b*) for the deduction of super-tax from dividends in accordance with the provisions of sub-section (3D) or (3E) of section 18 of the said Act.

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[2] These words would now mean "State of Bombay," though the necessary amendment has not been made by the Adaptation of Laws Order, 1950.

[3] Substituted for "Provincial" by the Adaptation of Laws Order, 1950.

(ACT NO. XIV OF 1949)

(*Received the assent of the Governor-General on the 31st March, 1949.*)

1. Short title and extent.—(1) This Act may be called the Indian Finance Act, 1949.

(2) It extends to [1][the whole of India except [1a][the territories which, immediately before the 1st November, 1956, were comprised in Part B States]].

* * * * *

9. Income-tax and super-tax.—(1) Subject to the provisions of sub-sections (3), (4), (5) and (6), for the year beginning on the 1st day of April, 1949,—

(*a*) income-tax shall be charged at the rates specified in Part I of the Third Schedule, and

(*b*) rates of super-tax shall, for the purposes of section 55 of the Income-tax Act, be those specified in Part II of the Third Schedule.

(2) In making any assessment for the year ending on the 31st day of March, 1950, there shall be deducted from the total income of an assessee, in accordance with the provisions of section 15A of the Income-tax Act, an amount equal to one-fifth of the earned income, if any, included in his total income, but not exceeding in any case four thousand rupees.

(3) In making any assessment for the year ending on the 31st day of March, 1950,—

(*a*) where the total income of an assessee, not being a company, includes any income chargeable under the head "Salaries" as reduced by the deduction for earned income appropriate thereto, or any income chargeable under the head "Interest on securities," or any income from dividends in respect of which he is deemed under section 49B of the Income-tax Act to have paid income-tax imposed in [2][the taxable territories], the income-tax payable by the assessee on that part of his total income which consists of such inclusions shall be an amount bearing to the total amount of income-tax payable according to the rates applicable under the operation of the Indian Finance Act, 1948, on his total income the same proportion as the amount of such inclusions bears to his total income ;

(*b*) where the total income of an assessee, not being a company, includes any income chargeable under the head "Salaries" on which super-tax has been or might have been deducted under the provisions of sub-section (2) of section 18 of the Income-tax Act, the super-tax payable by the assessee on that portion of his total income which consists of such inclusion shall be an amount bearing to the total amount of super-tax payable, according to the rates applicable under the operation of the Indian Finance Act, 1948, on his total income the same proportion as the amount of such inclusion bears to his total income.

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[1] Substituted for "all the Provinces of India" by the Adaptation of Laws Order, 1950.

[1a] Substituted for "Part B States" by the Adaptation of Laws (No. 3) Order, 1956, with effect from the 1st November, 1956.

[2] Substituted for "British India" by the Adaptation of Laws Order, 1950.

Div. 5 A

(4) In making any assessment for the year ending on the 31st day of March, 1950, where the total income of an assessee consists partly of earned income and partly of unearned income, the super-tax payable by him shall be—

(*i*) on that part of the earned income chargeable under the head "Salaries" to which clause (*b*) of sub-section (3) applies, the amount of super-tax computed in accordance with the provisions of that sub-section, *plus*

(*ii*) on the remainder of the earned income, the amount which bears to the total amount of super-tax which would have been payable on his total income had it consisted wholly of earned income the same proportion as such remainder bears to his total income, *plus*

(*iii*) on the unearned income, the amount which bears to the total amount of super-tax which would have been payable on his total income had it consisted wholly of unearned income the same proportion as the unearned income bears to his total income.

(5) In making any assessment for the year ending on the 31st day of March, 1950,—

(*a*) where the total income of a company includes any profits and gains from life insurance business, the super-tax otherwise payable by the company on the whole of such total income shall be reduced by an amount which bears to that super-tax the same proportion as the amount of such inclusion bears to its total income or by an amount computed at the rate of two annas in the rupee on the amount of such inclusion, whichever is less ;

(*b*) where the total income of an assessee, not being a company, includes any profits and gains from life insurance business, the income-tax and super-tax payable by the assessee on that part of his total income which consists of such inclusion shall be an amount bearing to the total amount of such taxes payable according to the rates applicable under the operation of the Indian Finance Act, 1942, on his total income the same proportion as the amount of such inclusion bears to his total income, so however that the aggregate of the taxes so computed in respect of such inclusion shall not in any case exceed the amount of tax payable on such inclusion at the rate of five annas in the rupee.

(6) In cases to which section 17 of the Income-tax Act applies, the tax chargeable shall be determined as provided in that section, but with reference to the rates imposed by sub-section (1), and in accordance, where applicable, with the provisions of sub-sections (3), (4) and (5) of this section.

(7) For the purposes of making any deduction of income-tax in the year beginning on the 1st day of April, 1949, under sub-section (2) or sub-section (2B) of section 18 of the Income-tax Act from any earned income chargeable under the head "Salaries," the estimated total income of the assessee under this head shall, in computing the income-tax to be deducted, be reduced by an amount equal to one-fifth of such earned income, but not exceeding in any case four thousand rupees; but no abatement shall be allowed by the person responsible for paying the salary in respect of any donations made by the assessee to which section 15B of the Income-tax Act is or may be applicable.

(8) For the purposes of this section and of the rates of tax imposed thereby, the expression "total income" means total income as determined for the purposes of income-tax or super-tax, as the case may be, in accordance with the provisions of the Income-tax Act, and the expression "earned income" has the meaning assigned to it in clause (6AA) of section 2 of that Act.

10. Re-assessment of super-tax in the case of certain companies.—(1) Notwithstanding anything contained in sub-section (1) of section 9 of, or paragraph D of Part II of the Second Schedule to, the Indian Finance Act, 1948, the rate of super-tax for the purposes of section 55 of the Income-tax Act and for the year beginning on the 1st day of April, 1948, shall be four annas per rupee of the total income in the case of any company not entitled to the rebate allowed by the proviso to paragraph D of Part II of the Second Schedule to the Indian Finance Act, 1948, unless it was—

(*a*) a public company whose shares were offered for sale in a recognised Stock Exchange at any time during the previous year, or

(*b*) a company all of whose shares were held at the end of the previous year by one or more such public companies as aforesaid.

(2) For the purposes of sub-section (1), a company shall be deemed to be a public company only if it is neither a private company within the meaning of the Indian Companies Act, 1913, nor a company in which shares carrying more than fifty per cent of the total voting power were, at any time during the previous year, held or controlled by less than six persons.

(3) Where the assessment for the year beginning on the 1st day of April, 1948, has been made before the commencement of this Act in respect of any company to which sub-section (1) of this section applies, it shall be revised by the Income-tax Officer so as to give effect to the provisions of that sub-section.

11. Business profits tax.—(1) In sub-clause (*a*) of clause (4) of section 2 of the Business Profits Tax Act, 1947, for the figures "1948" the figures "1949" shall be substituted.

(2) The tax imposed by section 4 of the said Act shall, in respect of any chargeable accounting period beginning after the 31st day of March, 1948, be an amount equal to ten per cent of the taxable profits.

(3) For the purposes of the said Act, "abatement" shall mean, in respect of any chargeable accounting period beginning after the 31st day of March, 1948, a sum which bears—

(*a*) in the case of a company not being a company deemed for the purposes of section 9 of the said Act to be a firm, to a sum equal to six per cent of the capital of the company on the 1st day of the said period, computed in accordance with Schedule II to the said Act, or two lakhs of rupees, whichever is greater, or

(*b*) in any other case, to two lakhs of rupees,

the same proportion as the said period bears to the period of one year.

* * * * *

Div. 5 A

THE THIRD SCHEDULE

(See section 9)

Part I

RATES OF INCOME-TAX

A. In the case of every individual, Hindu undivided family, unregistered firm and other association of persons, not being a case to which paragraph B or C of this Part applies—

		Rate
1.	On the first Rs. 1,500 of total income	Nil
2.	On the next Rs. 3,500 of total income	Nine pies in the rupee
3.	On the next Rs. 5,000 of total income	One anna and nine pies in the rupee
4.	On the next Rs. 5,000 of total income . ..	Three and a half annas in the rupee
5.	On the balance of total income	Five annas in the rupee :

Provided that—

(*i*) no income-tax shall be payable on a total income which, before deduction of the allowance, if any, for earned income, does not exceed the limit specified below ;

(*ii*) the income-tax payable shall in no case exceed half the amount by which the total income (before deduction of the said allowance, if any, for earned income) exceeds the said limit ;

(*iii*) the income-tax payable on the total income as reduced by the allowance for earned income shall not exceed either—

(*a*) a sum bearing to half the amount by which the total income (before deduction of the allowance for earned income) exceeds the said limit the same proportion as such reduced total income bears to the unreduced total income, or

(*b*) the income-tax payable on the income so reduced at the rates herein specified,—

whichever is less.

The limit referred to in the above proviso shall be—

(*i*) Rs. 5,000 in the case of every Hindu undivided family which satisfies as at the end of the previous year either of the following conditions, namely :—

(*a*) that it has at least two members entitled to [3][claim] partition who are not less than 18 years of age ; or

(*b*) that it has at least two members entitled to [3][claim] partition neither of whom is a lineal descendant of the other and both of whom are not lineally descended from any other living members of the family ; and

(*ii*) Rs. 3,000 in every other case.

[3] This word was substituted for the words "a share on" by s. 2 of the Finance Laws (Amendment) Act, 1950 (54 of 1950), and shall be deemed always to have been there.

[4][*Explanation.*—For the purposes of this paragraph, in the case of every Hindu undivided family governed by the Mitakshara law, a son shall be deemed to be entitled to claim partition of the coparcenary property against his father or grand-father, notwithstanding any custom to the contrary]. **Div. 5 A**

B. In the case of every company—

	Rate
On the whole of total income	Five annas in the rupee :

Provided that in the case of an Indian company—

(*i*) where the total income, as reduced by seven annas in the rupee and by the amount, if any, exempt from income-tax, exceeds the amount of any dividends (including dividends payable at a fixed rate) declared in respect of the whole or part of the previous year for the assessment for the year ending on the 31st day of March, 1950, and no order has been made under sub-section (1) of section 23A of the Income-tax Act, a rebate shall be allowed at the rate of one anna per rupee on the amount of such excess ;

(*ii*) where the amount of dividends referred to in clause (*i*) above exceeds the total income as reduced by seven annas in the rupee and by the amount, if any, exempt from income-tax, there shall be charged on the total income an additional income-tax equal to the sum, if any, by which the aggregate amount of income-tax actually borne by such excess (hereinafter referred to as "the excess dividend") falls short of the amount calculated at the rate of five annas per rupee on the excess dividend.

For the purposes of the above proviso, the expression "dividend" shall have the meaning assigned to it in clause (6A) of section 2 of the Income-tax Act, but any distribution included in that expression, made during the year ending on the 31st day of March, 1950, shall be deemed to be a dividend declared in respect of the whole or part of the previous year.

For the purposes of clause (*ii*) of the above proviso, the aggregate amount of income-tax actually borne by the excess dividend shall be determined as follows :—

(*i*) the excess dividend shall be deemed to be out of the whole or such portion of the undistributed profits of one or more years immediately preceding the previous year as would be just sufficient to cover the amount of the excess dividend and as have not likewise been taken into account to cover an excess dividend of a preceding year ;

(*ii*) such portion of the excess dividend as is deemed to be out of the undistributed profits of each of the said years shall be deemed to have borne tax,—

(*a*) if an order has been made under sub-section (1) of section 23A of the Income-tax Act, in respect of the undistributed profits of that year, at the rate of five annas in the rupee, and

(*b*) in respect of any other year, at the rate applicable to the total income of the company for that year reduced by the rate at which rebate, if any, was allowed on the undistributed profits.

[4] Inserted, *ibid.*

Div. 5 A

C. In the case of every local authority and in every case in which, under the provisions of the Income-tax Act, income-tax is to be charged at the maximum rate—

	Rate
On the whole of total income	Five annas in the rupee.

Part II

RATES OF SUPER-TAX

A. In the case of every individual, Hindu undivided family, unregistered firm and other association of persons, not being a case to which any other paragraph of this Part applies—

	Rate, if income wholly earned	*Rate, if income wholly unearned*
1. On the first Rs. 25,000 of total income ..	Nil	Nil
2. On the next Rs. 15,000 of total income ..	Two annas in the rupee	Three annas in the rupee
3. On the next Rs. 15,000 of total income ..	Three annas in the rupee	Four and a half annas in the rupee
4. On the next Rs. 15,000 of total income ..	Five annas in the rupee	Six annas in the rupee
5. On the next Rs. 15,000 of total income ..	Six annas in the rupee	Seven annas in the rupee
6. On the next Rs. 15,000 of total income ..	Six and a half annas in the rupee	Eight annas in the rupee
7. On the next Rs. 50,000 of total income ..	Seven annas in the rupee	Nine annas in the rupee
8. On the next Rs. 1,00,000 of total income ..	Eight annas in the rupee	Nine and a half annas in the rupee
9. On the next Rs. 1,00,000 of total income ..	Eight and a half annas in the rupee	Ten annas in the rupee
10. On the balance of total income	Nine annas in the rupee	Ten annas in the rupee.

B. In the case of every local authority—

	Rate
On the whole of total income	Two annas in the rupee.

C. In the case of an association of persons being a co-operative society (other than the Sanikatta Saltowners' Society in the [5][State of Bombay]) for the time being registered under the Co-operative Societies Act, 1912, or under an Act of a [6][State] Legislature governing the registration of co-operative societies—

	Rate
1. On the first Rs. 25,000 of total income	Nil
2. On the balance of total income	Two annas in the rupee.

D. In the case of every company—

	Rate
On the whole of total income	Four annas in the rupee :

[5] Substituted for "Bombay Province" by the Adaptation of Laws Order, 1950.
[6] Substituted for "Provincial" by the Adaptation of Laws Order, 1950.

Div. 5 A

Provided that—

(*i*) a rebate at the rate of three annas per rupee of the total income shall be allowed in the case of any company which—

(*a*) in respect of its profits liable to tax under the Income-tax Act for the year ending on the 31st day of March, 1950, has made the prescribed arrangements for the declaration and payment in the [7][States] of the dividend payable out of such profits and for the deduction of super-tax from dividends in accordance with the provisions of sub-section (3D) or (3E) of section 18 of that Act, and

(*b*) is a public company with total income not exceeding Rs. 25,000;

(*ii*) a rebate at the rate of two annas per rupee of the total income shall be allowed in the case of any company which satisfies condition (*a*), but not condition (*b*), of the preceding clause; and

(*iii*) a rebate at the rate of one anna per rupee of the total income shall be allowed in the case of any company which not being entitled to a rebate under either of the preceding clauses, is—

(*a*) a public company whose shares were offered for sale in a recognised Stock Exchange at any time during the previous year, or

(*b*) a company all of whose shares were held at the end of the previous year by one or more such public companies as aforesaid:

Provided further that the super-tax payable by a company the total income of which exceeds Rs. 25,000 shall not exceed the aggregate of—

(*a*) the super-tax which would have been payable by the company if its total income had been Rs. 25,000, and

(*b*) half the amount by which its total income exceeds Rs. 25,000.

Explanation.—For the purposes of this paragraph of this Part, a company shall be deemed to be a public company only if it is neither a private company within the meaning of the Indian Companies Act, 1913, nor a company in which shares carrying more than fifty per cent. of the total voting power were, at any time during the previous year, held or controlled by less than six persons.

[7] Substituted for "Provinces" by the Adaptation of Laws Order, 1950.

THE FINANCE ACT, 1950

(ACT NO. XXV OF 1950)

(*Received the assent of the President on the* 31*st March,* 1950.)

1. **Short title.**—This Act may be called the Finance Act, 1950.

2. **Income-tax and super-tax.**—(1) Subject to the provisions of sub-sections (3), (4) and (5), for the year beginning on the 1st day of April, 1950,—

(*a*) income-tax shall be charged at the rates specified in Part I of the First Schedule, and

(*b*) rates of super-tax shall, for the purposes of section 55 of the Indian Income-tax Act, 1922 (XI of 1922) (hereinafter referred to as "the Income-tax Act"), be those specified in Part II of the First Schedule.

(2) In making any assessment for the year ending on the 31st day of March, 1951, there shall be deducted from the total income of an assessee, in accordance with the provisions of section 15A of the Income-tax Act, an amount equal to one-fifth of the earned income, if any, included in his total income, but not exceeding in any case four thousand rupees.

(3) In making any assessment for the year ending on the 31st day of March, 1951,—

(*a*) where the total income of an assessee, not being a company, includes any income chargeable under the head "Salaries" as reduced by the deduction for earned income appropriate thereto, or any income chargeable under the head "Interest on securities," or any income from dividends in respect of which by virtue of section 49B of the Income-tax Act he is deemed himself to have paid the income-tax imposed under that Act, the income-tax payable by the assessee on that part of his total income which consists of such inclusions shall be an amount bearing to the total amount of income-tax payable according to the rates applicable under the operation of the Indian Finance Act, 1949 (XIV of 1949), on his total income the same proportion as the amount of such inclusions bears to his total income;

(*b*) where the total income of an assessee, not being a company, includes any income chargeable under the head "Salaries" on which super-tax has been or might have been deducted under the provisions of sub-section (2) of section 18 of the Income-tax Act, the super-tax payable by the assessee on that portion of his total income which consists of such inclusion shall be an amount bearing to the total amount of super-tax payable, according to the rates applicable under the operation of the Indian Finance Act, 1949, on his total income the same proportion as the amount of such inclusion bears to his total income.

(4) In making any assessment for the year ending on the 31st day of March, 1951,—

(*a*) where the total income of a company includes any profits and gains from life insurance business, the super-tax otherwise payable by the company on the whole of such total income shall be reduced by an amount which bears to that super-tax the same proportion as the amount of such inclusion bears to its total income or by an amount computed at the rate of two annas in the rupee on the amount of such inclusion, whichever is less;

(*b*) where the total income of an assessee, not being a company, includes any profits and gains from life insurance business, the income-tax and super-tax payable by the assessee on that part of his total income which consists of such inclusion shall be an amount bearing to the total amount of such taxes payable according to the rates applicable under the operation of the Indian Finance Act, 1942 (XII of 1942), on his total income the same proportion as the amount of such inclusion bears to his total income, so however that the aggregate of the taxes so computed in respect of such inclusion shall not in any case exceed the amount of tax payable on such inclusion at the rate of four and a half annas in the rupee. **Div. 5 A**

(5) In cases to which section 17 of the Income-tax Act applies, the tax chargeable shall be determined as provided in that section, but with reference to the rates imposed by sub-section (1), and in accordance, where applicable, with the provisions of sub-sections (3) and (4) of this section.

(6) For the purposes of making any deduction of income-tax in the year beginning on the 1st day of April, 1950, under sub-section (2) or sub-section (2B) of section 18 of the Income-tax Act from any earned income chargeable under the head "Salaries," the estimated total income of the assessee under this head shall, in computing the income-tax to be deducted, be reduced by an amount equal to one-fifth of such earned income, but not exceeding in any case four thousand rupees; but no abatement shall be allowed by the person responsible for paying the salary in respect of any donations made by the assessee to which section 15B of the Income-tax Act is or may be applicable.

(7) For the purposes of this section and of the rates of tax imposed thereby, the expression "total income" means total income as determined for the purposes of income-tax or super-tax, as the case may be, in accordance with the provisions of the Income-tax Act, and the expression "earned income" has the meaning assigned to it in clause (6AA) of section 2 of that Act.

* * * * *

13. Repeals and savings.—(1) If immediately before the 1st day of April, 1950, there is in force in any Part B State other than Jammu and Kashmir or in Manipur, Tripura or Vindhya Pradesh or in the merged territory of Cooch-Behar any law relating to income-tax or super-tax or tax on profits of business, that law shall cease to have effect except for the purposes of the levy, assessment and collection of income-tax and super-tax in respect of any period not included in the previous year for the purposes of assessment under the Indian Income-tax Act, 1922 (XI of 1922), for the year ending on the 31st day of March, 1951, or for any subsequent year, or, as the case may be, the levy, assessment and collection of the tax on profits of business for any chargeable accounting period ending on or before the 31st day of March, 1949:

Provided that any reference in any such law to an officer, authority, tribunal or Court shall be construed as a reference to the corresponding officer, authority, tribunal or Court appointed or constituted under the said Act, and if any question arises as to who such corresponding officer, authority, tribunal or Court is, the decision of the Central Government thereon shall be final:

Provided further that where under any such law, tax is chargeable on the total income including agricultural income, the assessment shall be made by the corresponding officer or authority referred to in the preceding proviso only in

Div. 5 A respect of income other than agricultural income, and the tax payable on such income shall be an amount bearing to the total amount of tax which would have been payable under the State law if a combined assessment had been made, the same proportion as such income bears to the total income including the agricultural income, so however that for this purpose any reduction of tax allowed on the agricultural income by the State law shall not be taken into account.

(2) If immediately before the 1st day of April, 1950, there is in force in any State other than Jammu and Kashmir a law corresponding to, but other than, an Act referred to in sub-section (1) or (2) of section 11, such law is hereby repealed with effect from the said date; and if immediately before the said date there is in force in the State of Jammu and Kashmir a law corresponding to the Indian Post Office Act, 1898, such law is hereby repealed with effect from the said date:

Provided that such repeal shall not affect (*a*) the previous operation of the corresponding law, or (*b*) any penalty, forfeiture or punishment ordered in respect of an offence committed against any such law, or (*c*) any investigation, legal proceeding or remedy in respect of such penalty, forfeiture or punishment, and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed, as if this Act had not been passed.

THE FIRST SCHEDULE

(See section 2)

Part I

RATES OF INCOME-TAX

A. In the case of every individual, Hindu undivided family, unregistered firm and other association of persons, not being a case to which paragraph B or C of this Part applies—

		Rate
1.	On the first Rs. 1,500 of total income	Nil
2.	On the next Rs. 3,500 of total income	Nine pies in the rupee
3.	On the next Rs. 5,000 of total income	One anna and nine pies in the rupee
4.	On the next Rs. 5,000 of total income	Three annas in the rupee
5.	On the balance of total income	Four annas in the rupee:

Provided that—

(*i*) no income-tax shall be payable on a total income which, before deduction of the allowance, if any, for earned income, does not exceed the limit specified below;

(*ii*) the income-tax payable shall in no case exceed half the amount by which the total income (before deduction of the said allowance, if any, for earned income) exceeds the said limit;

(*iii*) the income-tax payable on the total income as reduced by the allowance for earned income shall not exceed either—

(*a*) a sum bearing to half the amount by which the total income (before deduction of the allowance for earned income) exceeds the said limit the same proportion as such reduced total income bears to the unreduced total income, or

(*b*) the income-tax payable on the income so reduced at the rates herein specified,— **Div. 5 A**

whichever is less.

The limit referred to in the above proviso shall be—

(*i*) Rs. 7,200 in the case of every Hindu undivided family which satisfies as at the end of the previous year either of the following conditions, namely :—

(*a*) that it has at least two members entitled to [1][claim] partition who are not less than 18 years of age ; or

(*b*) that it has at least two members entitled to [1][claim] partition neither of whom is a lineal descendant of the other and both of whom are not lineally descended from any other living member of the family ; and

(*ii*) Rs. 3,600 in every other case.

[2][*Explanation.*—For the purposes of this paragraph, in the case of every Hindu undivided family governed by the Mitakshara law, a son shall be deemed to be entitled to claim partition of the coparcenary property against his father or grandfather, notwithstanding any custom to the contrary.]

B. In the case of every company—

	Rate
On the whole of total income	Four annas in the rupee :

Provided that in the case of a company which, in respect of its profits liable to tax under the Income-tax Act for the year ending on the 31st day of March, 1951, has made the prescribed arrangements for the declaration and payment within the territory of India excluding the State of Jammu and Kashmir, of the dividends payable out of such profits, and has deducted super-tax from the dividends in accordance with the provisions of sub-section (3D) or (3E) of section 18 of that Act—

(*i*) where the total income, as reduced by six and a half annas in the rupee and by the amount, if any, exempt from income-tax, exceeds the amount of any dividends (including dividends payable at a fixed rate) declared in respect of the whole or part of the previous year for the assessment for the year ending on the 31st day of March, 1951, and no order has been made under sub-section (1) of section 23A of the Income-tax Act, a rebate shall be allowed at the rate of one anna per rupee on the amount of such excess ;

(*ii*) where the amount of dividends referred to in clause (*i*) above exceeds the total income as reduced by six and a half annas in the rupee and by the amount, if any, exempt from income-tax, there shall be charged on the total income an additional income-tax equal to the sum, if any, by which the aggregate amount of income-tax actually borne by such excess (hereinafter referred to as "the excess dividend") falls short of the amount calculated at the rate of five annas per rupee on the excess dividend.

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[1] This word was substituted for the words "a share on" by s. 3 of the Finance Laws (Amendment) Act, 1950 (54 of 1950), and shall be deemed always to have been there.

[2] Inserted, *ibid.*

Div. 5 A For the purposes of the above proviso, the expression "dividend" shall have the meaning assigned to it in clause (6A) of section 2 of the Income-tax Act, but any distribution included in that expression made during the year ending on the 31st day of March, 1951, shall be deemed to be a dividend declared in respect of the whole or part of the previous year.

For the purposes of clause (*ii*) of the above proviso, the aggregate amount of income-tax actually borne by the excess dividend shall be determined as follows:—

(*i*) the excess dividend shall be deemed to be out of the whole or such portion of the undistributed profits of one or more years immediately preceding the previous year as would be just sufficient to cover the amount of the excess dividend and as have not likewise been taken into account to cover an excess dividend of a preceding year;

(*ii*) such portion of the excess dividend as is deemed to be out of the undistributed profits of each of the said years shall be deemed to have borne tax,—

(*a*) if an order has been made under sub-section (1) of section 23A of the Income-tax Act, in respect of the undistributed profits of that year, at the rate of five annas in the rupee, and

(*b*) in respect of any other year, at the rate applicable to the total income of the company for that year reduced by the rate at which rebate, if any, was allowed on the undistributed profits.

C. In the case of every local authority and in every case in which, under the provisions of the Income-tax Act, income-tax is to be charged at the maximum rate—

	Rate
On the whole of total income	Four annas in the rupee.

Part II

Rates of Super-tax

A. In the case of every individual, Hindu undivided family, unregistered firm and other association of persons, not being a case to which any other paragraph of this Part applies—

	Rate
1. On the first Rs. 25,000 of total income	Nil
2. On the next Rs. 15,000 of total income	Three annas in the rupee
3. On the next Rs. 15,000 of total income	Four annas in the rupee
4. On the next Rs. 15,000 of total income	Six annas in the rupee
5. On the next Rs. 15,000 of total income	Seven annas in the rupee
6. On the next Rs. 15,000 of total income	Seven and a half annas in the rupee
7. On the next Rs. 50,000 of total income	Eight annas in the rupee
8. On the balance of total income	Eight and a half annas in the rupee.

B. In the case of every local authority—

	Rate
On the whole of total income	Two and a half annas in the rupee.

C. In the case of an association of persons being a co-operative society (other than the Sanikatta Saltowners' Society in the State of Bombay) for the time being registered under the Co-operative Societies Act, 1912 (II of 1912), or under any law of a State governing the registration of co-operative societies— **Div. 5 A**

	Rate
1. On the first Rs. 25,000 of total income	Nil
2. On the balance of total income	Two and a half annas in the rupee.

D. In the case of every company—

	Rate
On the whole of total income	Four and a half annas in the rupee :

Provided that—

(*i*) a rebate at the rate of three annas per rupee of the total income shall be allowed in the case of any company which—

(*a*) in respect of its profits liable to tax under the Income-tax Act for the year ending on the 31st day of March, 1951, has made the prescribed arrangements for the declaration and payment in the territory of India excluding the State of Jammu and Kashmir of the dividend payable out of such profits and for the deduction of super-tax from dividends in accordance with the provisions of sub-section (3D) or (3E) of section 18 of that Act, and

(*b*) is a public company with total income not exceeding Rs. 25,000 ;

(*ii*) a rebate at the rate of two annas per rupee of the total income shall be allowed in the case of any company which satisfies condition (*a*), but not condition (*b*), of the preceding clause ; and

(*iii*) a rebate at the rate of one anna per rupee of the total income shall be allowed in the case of any company which, not being entitled to a rebate under either of the preceding clauses, is—

(*a*) a public company whose shares were offered for sale in a recognised stock exchange at any time during the previous year, or

(*b*) a company all of whose shares were held at the end of the previous year by one or more such public companies as aforesaid :

Provided further that the super-tax payable by a company the total income of which exceeds Rs. 25,000 shall not exceed the aggregate of—

(*a*) the super-tax which would have been payable by the company if its total income had been Rs. 25,000, and

(*b*) half the amount by which its total income exceeds Rs. 25,000.

Explanation.—For the purposes of this paragraph of this Part, a company shall be deemed to be a public company only if it is neither a private company within the meaning of the Indian Companies Act, 1913 (VII of 1913), nor a company in which shares carrying more than fifty per cent of the total voting power were, at any time during the previous year, held or controlled by less than six persons.

* * * * *

THE FINANCE ACT, 1951

(ACT No. XXIII OF 1951)

(*Received the assent of the President on the 28th April*, 1951.)

1. Short title.—This Act may be called the Finance Act, 1951.

2. Income-tax and super-tax.—(1) Subject to the provisions of sub-sections (3), (4) and (5), for the year beginning on the 1st day of April, 1951,—

(*a*) income-tax shall be charged at the rates specified in Part I of the First Schedule, increased in each case by a surcharge for the purposes of the Union at the rate specified therein in respect of each such rate of income-tax, and

(*b*) rates of super-tax shall, for the purposes of section 55 of the Indian Income-tax Act, 1922 (hereinafter referred to as "the Income-tax Act"), be those specified in Part II of the First Schedule, increased in the cases to which paragraphs A, B and C of that Part apply, by a surcharge for the purposes of the Union at the rate specified therein in respect of each such rate of super-tax.

(2) In making any assessment for the year ending on the 31st day of March, 1952, there shall be deducted from the total income of an assessee, in accordance with the provisions of section 15A of the Income-tax Act, an amount equal to one-fifth of the earned income, if any, included in his total income, but not exceeding in any case four thousand rupees.

(3) In making any assessment for the year ending on the 31st day of March, 1952,—

(*a*) where the total income of an assessee, not being a company, includes any income chargeable under the head "Salaries" as reduced by the deduction for earned income appropriate thereto or any income chargeable under the head "Interest on securities," or any income from dividends in respect of which by virtue of section 49B of the Income-tax Act he is deemed himself to have paid the income-tax imposed under that Act, the income-tax payable by the assessee on that part of his total income which consists of such inclusions shall be an amount bearing to the total amount of income-tax payable according to the rates applicable under the operation of the Finance Act, 1950, on his total income the same proportion as the amount of such inclusions bears to his total income ;

(*b*) where the total income of an assessee, not being a company, includes any income chargeable under the head "Salaries" on which super-tax has been or might have been deducted under the provisions of sub-section (2) of section 18 of the Income-tax Act the super-tax payable by the assessee on that portion of his total income which consists of such inclusion shall be an amount bearing to the total amount of super-tax payable, according to the rates applicable under the operation of the Finance Act, 1950, on his total income the same proportion as the amount of such inclusion bears to his total income.

(4) In making any assessment for the year ending on the 31st day of March, 1952,—

(*a*) where the total income of a company includes any profits and gains from life insurance business, the super-tax otherwise payable by the company on the whole of such total income shall be reduced by an

amount which bears to that super-tax the same proportion as the amount of such inclusion bears to its total income or by an amount computed at the rate of—

(*i*) two annas in the rupee in the case of a mutual insurance company as defined in section 95 of the Insurance Act, 1938 (IV of 1938), and

(*ii*) one-and-a-half annas in the rupee in the case of any other company,

on the amount of such inclusion, whichever is less;

(*b*) where the total income of an assessee, not being a company, includes any profits and gains from life insurance business, the income-tax and super-tax payable by the assessee on that part of his total income which consists of such inclusion shall be an amount bearing to the total amount of such taxes payable on his total income according to the rates applicable under the operation of the Indian Finance Act, 1942, increased in respect of each such rate by one-twentieth thereof, the same proportion as the amount of such inclusion bears to his total income, so however that the aggregate of the taxes so computed in respect of such inclusion shall not in any case exceed the amount of tax payable on such inclusion at the rate of five annas in the rupee.

(5) In cases to which section 17 of the Income-tax Act applies, the tax chargeable shall be determined as provided in that section, but with reference to the rates imposed by sub-section (1), and in accordance, where applicable, with the provisions of sub-sections (3) and (4) of this section.

(6) For the purposes of making any deduction of income-tax in the year beginning on the 1st day of April, 1951, under sub-section (2) or sub-section (2B) of section 18 of the Income-tax Act from any earned income chargeable under the head "Salaries," the estimated total income of the assessee under this head shall, in computing the income-tax to be deducted, be reduced by an amount equal to one-fifth of such earned income, but not exceeding in any case four thousand rupees; but no abatement shall be allowed by the person responsible for paying the salary in respect of any donations made by the assessee to which section 15B of the Income-tax Act is or may be applicable.

(7) For the purposes of this section and of the rates of tax imposed thereby, the expression "total income" means total income as determined for the purposes of income-tax or super-tax, as the case may be, in accordance with the provisions of the Income-tax Act, and the expression "earned income" has the meaning assigned to it in clause (6AA) of section 2 of that Act.

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Div. 5 A

THE FIRST SCHEDULE

(See section 2)

Part I

RATES OF INCOME-TAX

A. In the case of every individual, Hindu undivided family, unregistered firm and other association of persons, not being a case to which paragraph B or paragraph C of this Part applies—

	Rate	*Surcharge*
1. On the first Rs. 1,500 of total income	Nil	Nil
2. On the next Rs. 3,500 of total income	Nine pies in the rupee	One-twentieth of the rate specified in the preceding column
3. On the next Rs. 5,000 of total income	One anna and nine pies in the rupee	Do.
4. On the next Rs. 5,000 of total income	Three annas in the rupee	Do.
5. On the balance of total income ..	Four annas in the rupee	Do.

Provided that—

(*i*) no income-tax shall be payable on a total income which, before deduction of the allowance, if any, for earned income, does not exceed the limit specified below;

(*ii*) the income-tax payable shall in no case exceed half the amount by which the total income (before deduction of the said allowance, if any, for earned income) exceeds the said limit;

(*iii*) the income-tax payable on the total income as reduced by the allowance for earned income shall not exceed either—

(*a*) a sum bearing to half the amount by which the total income (before deduction of the allowance for earned income) exceeds the said limit the same proportion as such reduced total income bears to the unreduced total income, or

(*b*) the income-tax payable on the income so reduced at the rates herein specified,—

whichever is less.

The limit referred to in the above proviso shall be—

(*i*) Rs. 7,200 in the case of every Hindu undivided family which satisfies as at the end of the previous year either of the following conditions, namely:—

(*a*) that it has at least two members entitled to claim partition who are not less than 18 years of age; or

(*b*) that it has at least two members entitled to claim partition neither of whom is a lineal descendant of the other and both of whom are not lineally descended from any other living member of the family ; and **Div. 5 A**

(*ii*) Rs. 3,600 in every other case.

Explanation.—For the purposes of this paragraph, in the case of every Hindu undivided family governed by the Mitakshara law, a son shall be deemed to be entitled to claim partition of the coparcenary property against his father or grandfather, notwithstanding any custom to the contrary :

Provided further that—

(*i*) no surcharge shall be payable on a total income which before deduction of the allowance, if any, for earned income does not exceed the limit specified below ;

(*ii*) the surcharge payable shall in no case exceed half the amount by which the total income (before deduction of the said allowance, if any, for earned income) exceeds the said limit.

The limit referred to in the above proviso shall be—

(*i*) Rs. 14,400 in the case of every Hindu undivided family referred to in the preceding proviso ;

(*ii*) Rs. 7,200 in every other case.

B. In the case of every company—

	Rate	*Surcharge*
On the whole of total income ..	Four annas in the rupee	One-twentieth of the rate specified in the preceding column :

Provided that in the case of a company which, in respect of its profits liable to tax under the Income-tax Act for the year ending on the 31st day of March, 1952, has made the prescribed arrangements for the declaration and payment within the territory of India excluding the State of Jammu and Kashmir, of the dividends payable out of such profits, and has deducted super-tax from the dividends in accordance with the provisions of sub-section (3D) or (3E) of section 18 of the Act—

(*i*) where the total income, as reduced by seven annas in the rupee and by the amount, if any, exempt from income-tax, exceeds the amount of any dividends (including dividends payable at a fixed rate) declared in respect of the whole or part of the previous year for the assessment for the year ending on the 31st day of March, 1952, and no order has been made under sub-section (1) of section 23A of the Income-tax Act, a rebate shall be allowed at the rate of one anna per rupee on the amount of such excess ;

(*ii*) where the amount of dividends referred to in clause (*i*) above exceeds the total income as reduced by seven annas in the rupee and by the amount, if any, exempt from income-tax, there shall be charged on the total income an additional income-tax equal to the sum, if any, by which the aggregate amount of income-tax actually borne by such excess (hereinafter referred to as "the excess dividend") falls short of the amount calculated at the rate of five annas per rupee on the excess dividend.

Div. 5 A For the purposes of the above proviso, the expression "dividend" shall have the meaning assigned to it in clause (6A) of section 2 of the Income-tax Act, but any distribution included in that expression, made during the year ending on the 31st day of March, 1952, shall be deemed to be a dividend declared in respect of the whole or part of the previous year.

For the purposes of clause (*ii*) of the above proviso, the aggregate amount of income-tax actually borne by the excess dividend shall be determined as follows:—

(*i*) the excess dividend shall be deemed to be out of the whole or such portion of the undistributed profits of one or more years immediately preceding the previous year as would be just sufficient to cover the amount of the excess dividend and as have not likewise been taken into account to cover an excess dividend of a preceding year;

(*ii*) such portion of the excess dividend as is deemed to be out of the undistributed profits of each of the said years shall be deemed to have borne tax,—

(*a*) if an order has been made under sub-section (1) of section 23A of the Income-tax Act, in respect of the undistributed profits of that year, at the rate of five annas in the rupee, and

(*b*) in respect of any other year, at the rate applicable to the total income of the company for that year reduced by the rate at which rebate, if any, was allowed on the undistributed profits.

C. In the case of every local authority and in every case in which, under the provisions of the Income-tax Act, income-tax is to be charged at the maximum rate—

	Rate	*Surcharge*
On the whole of total income ..	Four annas in the rupee	One-twentieth of the rate specified in the preceding column.

Part II

Rates of Super-tax

A. In the case of every individual, Hindu undivided family, unregistered firm and other association of persons, not being a case to which any other paragraph of this Part applies—

	Rate	*Surcharge*
1. On the first Rs. 25,000 of total income	Nil	Nil
2. On the next Rs. 15,000 of total income	Three annas in the rupee	One-twentieth of the rate specified in the preceding column
3. On the next Rs. 15,000 of total income	Four annas in the rupee	Do.
4. On the next Rs. 15,000 of total income	Six annas in the rupee	Do.

	Rate	Surcharge
5. On the next Rs. 15,000 of total income	Seven annas in the rupee	One-twentieth of the rate specified in the preceding column
6. On the next Rs. 15,000 of total income	Seven and a half annas in the rupee	Do.
7. On the next Rs. 50,000 of total income	Eight annas in the rupee	Do.
8. On the balance of total income ..	Eight and a half annas in the rupee	Do.

B. In the case of every local authority—

	Rate	Surcharge
On the whole of total income ..	Two and a half annas in the rupee	Three pies in the rupee.

C. In the case of an association of persons being a co-operative society (other than the Sanikatta Saltowners' Society in the State of Bombay) for the time being registered under the Co-operative Societies Act, 1912, or under any law of a State governing the registration of co-operative societies—

	Rate	Surcharge
1. On the first Rs. 25,000 of total income	Nil	Nil
2. On the balance of total income ..	Two and a half annas in the rupee	Three pies in the rupee.

D. In the case of every company—

	Rate
On the whole of total income	Four annas and nine pies in the rupee :

Provided that—

(*i*) a rebate at the rate of three annas per rupee of the total income shall be allowed in the case of any company which —

(*a*) in respect of its profits liable to tax under the Income-tax Act for the year ending on the 31st day of March, 1952, has made the prescribed arrangements for the declaration and payment in the territory of India excluding the State of Jammu and Kashmir of the dividend payable out of such profits and for the deduction of supertax from dividends in accordance with the provisions of sub-section (3D) or (3E) of section 18 of that Act, and

(*b*) is a public company with total income not exceeding Rs. 25,000 ;

(*ii*) a rebate at the rate of two annas per rupee of the total income shall be allowed in the case of any company which satisfies condition (*a*), but not condition (*b*), of the preceding clause ; and

(*iii*) a rebate at the rate of one anna per rupee of the total income shall be allowed in the case of any company which, not being entitled to a rebate under either of the preceding clauses, is—

(*a*) a public company whose shares were offered for sale in a recognised stock exchange at any time during the previous year, or

(*b*) a company all of whose shares were held at the end of the previous year by one or more such public companies as aforesaid :

Div. 5 A

Provided further that the super-tax payable by a company the total income of which exceeds Rs. 25,000 shall not exceed the aggregate of—

(*a*) the super-tax which would have been payable by the company if its total income had been Rs. 25,000, and

(*b*) half the amount by which its total income exceeds Rs. 25,000.

Explanation.—For the purposes of this paragraph of this Part, a company shall be deemed to be a public company only if it is neither a private company within the meaning of the Indian Companies Act, 1913, nor a company in which shares carrying more than fifty per cent of the total voting power were, at any time during the previous year, held or controlled by less than six persons.

* * * * *

THE FINANCE ACT, 1952

(ACT No. XXIX OF 1952)

(*Received the assent of the President on the 7th March*, 1952.)

1. **Short title.**—This Act may be called the Finance Act, 1952.

2. **Income-tax and super-tax.**—The provisions of section 2 of, and the First Schedule to, the Finance Act, 1951 (XXIII of 1951), shall apply in relation to income-tax and super-tax for the financial year 1952-53 as they apply in relation to income-tax and super-tax for the financial year 1951-52, with the modification that in the said provisions for the figures "1950", "1951" and "1952", wherever they occur, the figures "1951", "1952" and "1953" shall respectively be substituted.

* * * * *

THE FINANCE ACT, 1953

(ACT No. XIV OF 1953)

(*Received the assent of the President on the 25th April*, 1953.)

1. **Short title.**—This Act may be called the Finance Act, 1953.

2. **Income-tax and super-tax.**—The provisions of section 2 of, and the First Schedule to, the Finance Act, 1951 (XXIII of 1951), as originally enacted, shall apply in relation to income-tax and super-tax for the financial year 1953-54 as they apply in relation to income-tax and super-tax for the financial year 1952-53 with the modifications that—

(*a*) for the figures "1950", "1951" and "1952", wherever they occur, the figures "1951", "1953" and "1954" shall respectively be substituted; and

(*b*) in the First Schedule,— **Div. 5 A**

(*i*) in Part I, in the limits specified in the first proviso to paragraph A, for the figures "7,200" and "3,600", the figures "8,400" and "4,200" shall respectively be substituted ;

(*ii*) in Part II, in clause (*iii*) of the first proviso to paragraph D, for the words "one anna per rupee of the total income", the following shall be substituted, namely :—

"one anna and six pies per rupee on so much of the total income as consists of dividends from a subsidiary Indian company, and a rebate at the rate of six pies per rupee on any other income included in the total income".

* * * * *

THE FINANCE ACT, 1954*

(ACT NO. XVII OF 1954)

(*Received the assent of the President on the 27th April*, 1954.)

1. **Short title.**—This Act may be called the Finance Act, 1954.

2. **Income-tax and super-tax.**—The provisions of section 2 of the Finance Act, 1951 (XXIII of 1951), as originally enacted, and the provisions of the First Schedule thereof as amended by clause (*b*) of section 2 of the Finance Act, 1953 (XIV of 1953), shall apply in relation to income-tax and super-tax for the financial year 1954-55 with the modifications that,—

(*a*) references in the Finance Act, 1951 (XXIII of 1951), to the year beginning on the 1st day of April, 1951, shall be construed as references to the year beginning on the 1st day of April, 1954 ;

(*b*) references in the said Act to the Finance Act, 1950 (XXV of 1950), shall be construed as references to the Finance Act, 1953 (XIV of 1953) ; and

(*c*) references in the said Act and the First Schedule thereof to the year ending on the 31st day of March, 1952, shall be construed as references to the year ending on the 31st day of March, 1955.

* * * * *

* The Finance Act, 1951 (XXIII of 1951), and the First Schedule thereto, in so far as they have been made applicable in relation to income-tax and super-tax for the financial year 1954-55 by the Finance Act, 1954 (17 of 1954), shall have effect as if the words "excluding the State of Jammu and Kashmir" and the word, brackets, figure and letter "or (3E)" had been omitted from Parts I and II of the First Schedule to the Finance Act, 1951. (*S.*2(3) *of the Taxation Laws (Extension to Jammu and Kashmir) Act*, 1954 (41 *of* 1954).)

THE FINANCE ACT, 1955

(ACT NO. XV OF 1955)

(Received the assent of the President on the 27th April, 1955.)

1. Short title.—This Act may be called the Finance Act, 1955.

2. Income-tax and super-tax.—(1) Subject to the provisions of sub-sections (2), (3), (4) and (5), for the year beginning on the 1st day of April, 1955,—

(*a*) income-tax shall be charged at the rates specified in Part I of the First Schedule, increased in each case by a surcharge for purposes of the Union at the rate specified therein in respect of each such rate of income-tax, and

(*b*) rates of super-tax shall, for the purposes of section 55 of the Indian Income-tax Act, 1922 (XI of 1922) (hereinafter referred to as the Income-tax Act), be those specified in Part II of the First Schedule, increased in the cases to which paragraphs A, B and C of that Part apply, by a surcharge for purposes of the Union at the rate specified therein in respect of each such rate of super-tax.

(2) In making any assessment for the year ending on the 31st day of March, 1956, there shall be deducted from the total income of an assessee,—

(*i*) in respect of the earned income, if any, chargeable under the head "Salaries" which is included in his total income, an amount equal to one-fifth of such earned income, *plus*

(*ii*) in respect of the earned income, if any, other than the income chargeable under the head "Salaries" which is included in his total income,—

(*a*) where such earned income does not exceed twenty-five thousand rupees, an amount equal to one-fifth of such earned income ;

(*b*) where such earned income exceeds twenty-five thousand rupees, the amount, if any, arrived at after deducting from four thousand rupees one-fifth of such excess :

Provided that the aggregate amount to be deducted under this sub-section shall not in any case exceed four thousand rupees.

(3) In making any assessment for the year ending on the 31st day of March, 1956,—

(*a*) where the total income of an assessee, not being a company, includes any income chargeable under the head "Salaries" as reduced by the deduction for earned income appropriate thereto, or any income chargeable under the head "Interest on securities," or any income from dividends in respect of which by virtue of section 49B of the Income-tax Act he is deemed himself to have paid the income-tax imposed under that Act, the income-tax payable by the assessee on that part of his total income which consists of such inclusions shall be an amount bearing to the total amount of income-tax payable according to the rates applicable under the operation of the Finance Act, 1954 (XVII of 1954), on his total income the same proportion as the amount of such inclusions bears to his total income ;

(*b*) where the total income of an assessee, not being a company, includes any income chargeable under the head "Salaries" on which super-tax has been or might have been deducted under the provisions of sub-section (2) of section 18 of the Income-tax Act, the super-tax payable by the assessee on that portion of his total income which consists of such inclusion shall be an amount bearing to the total amount of super-tax payable according to the rates applicable under the operation of the Finance Act, 1954 (XVII of 1954), on his total income the same proportion as the amount of such inclusion bears to his total income.

(4) In making any assessment for the year ending on the 31st day of March, 1956,—

(*a*) where the total income of a company includes any profits and gains from life insurance business, the super-tax otherwise payable by the company on the whole of such total income shall be reduced by an amount which bears to that super-tax the same proportion as the amount of such inclusion bears to its total income or by an amount computed at the rate of—

(*i*) two annas in the rupee in the case of a mutual insurance company as defined in section 95 of the Insurance Act, 1938 (IV of 1938), and

(*ii*) one-and-a-half annas in the rupee in the case of any other company,

on the amount of such inclusion, whichever is less ;

(*b*) where the total income of an assessee, not being a company, includes any profits and gains from life insurance business, the income-tax and super-tax payable by the assessee on that part of his total income which consists of such inclusion shall be an amount bearing to the total amount of such taxes payable on his total income according to the rates applicable under the operation of the Indian Finance Act, 1942 (XII of 1942), increased in respect of each such rate by one-twentieth thereof, the same proportion as the amount of such inclusion bears to his total income, so however that the aggregate of the taxes so computed in respect of such inclusion shall not in any case exceed the amount of tax payable on such inclusion at the rate of five annas in the rupee.

(5) In cases to which section 17 of the Income-tax Act applies, the tax chargeable shall be determined as provided in that section, but with reference to the rates imposed by sub-section (1), and in accordance, where applicable, with the provisions of sub-sections (2), (3) and (4) of this section.

(6) For the purposes of making any deduction of income-tax in the year beginning on the 1st day of April, 1955, under sub-section (2) or sub-section (2B) of section 18 of the Income-tax Act, from any earned income chargeable under the head "Salaries", the estimated total income of the assessee under that head shall, in computing the income-tax to be deducted, be reduced—

(*i*) where such earned income does not exceed twenty-five thousand rupees, by an amount equal to one-fifth of such earned income but not exceeding in any case four thousand rupees ;

Div. 5 A

(*ii*) where such earned income exceeds twenty-five thousand rupees, by the amount, if any, arrived at after deducting from four thousand rupees one-fifth of such excess ;

but no abatement shall be allowed by the person responsible for paying the salary in respect of any donations made by the assessee to which section 15B of the Income-tax Act is or may be applicable.

(7) For the purposes of this section and of the rates of tax imposed thereby, the expression "total income" means total income as determined for the purposes of income-tax or super-tax, as the case may be, in accordance with the provisions of the Income-tax Act, and the expression "earned income" has the meaning assigned to it in clause (6AA) of section 2 of that Act.

* * * * *

THE FIRST SCHEDULE

(See section 2)

Part I

RATES OF INCOME-TAX

A. (*i*) In the case of every individual who is married and every Hindu undivided family,—

	Rate	*Surcharge*
1. On the first Rs. 2,000 of total income	Nil	Nil
2. On the next Rs. 3,000 of total income	Nine pies in the rupee	One-twentieth of the rate specified in the preceding column
3. On the next Rs. 2,500 of total income	One anna and nine pies in the rupee	Do.
4. On the next Rs. 2,500 of total income	Two annas and three pies in the rupee	Do.
5. On the next Rs. 5,000 of total income	Three annas and three pies in the rupee	Do.
6. On the balance of total income ..	Four annas in the rupee	Do.

(*ii*) In the case of every individual who is not married and every unregistered firm or other association of persons, not being a case to which paragraph B or paragraph C of this Part applies,— **Div. 5 A**

	Rate	*Surcharge*
1. On the first Rs. 1,000 of total income	Nil	Nil
2. On the next Rs. 4,000 of total income	Nine pies in the rupee	One-twentieth of the rate specified in the preceding column
3. On the next Rs. 2,500 of total income	One anna and nine pies in the rupee	Do.
4. On the next Rs. 2,500 of total income	Two annas and three pies in the rupee	Do.
5. On the next Rs. 5,000 of total income	Three annas and three pies in the rupee	Do.
6. On the balance of total income ..	Four annas in the rupee	Do. :

Provided that—

(*i*) no income-tax shall be payable on a total income which, before deduction of the allowance, if any, for earned income, does not exceed the limit specified below ;

(*ii*) the income-tax payable shall in no case exceed half the amount by which the total income (before deduction of the said allowance, if any, for earned income) exceeds the said limit ;

(*iii*) the income-tax payable on the total income as reduced by the allowance for earned income shall not exceed either—

(*a*) a sum bearing to half the amount by which the total income (before deduction of the allowance for earned income) exceeds the said limit the same proportion as such reduced total income bears to the unreduced total income, or

(*b*) the income-tax payable on the income so reduced at the rates herein specified,—

whichever is less.

Div. 5 A

The limit referred to in the above proviso shall be—

(*i*) in the case of every Hindu undivided family which as at the end of the previous year had—

	Rs.
(*a*) at least two members entitled to claim partition	8,400
(*b*) at least four members entitled to claim partition ..	12,600 :

Provided that in the case referred to in sub-clause (*a*) none of the members and in the case referred to in sub-clause (*b*) none of the minimum number of four members,—

(*a*) is less than eighteen years of age, or

(*b*) is lineally descended from another member or along with another member is lineally descended from any other living member of the family not entitled to claim partition, and

(*ii*) in every other case .. .. Rs. 4,200 :

Provided further that—

(*i*) no surcharge shall be payable on a total income which before deduction of the allowance, if any, for earned income does not exceed the limit specified below ;

(*ii*) the surcharge payable shall in no case exceed half the amount by which the total income (before deduction of the said allowance, if any, for earned income) exceeds the said limit.

The limit referred to in the above proviso shall be—

(*i*) in the case of every Hindu undivided family which satisfies the conditions laid down in the preceding proviso and had as at the end of the previous year—

	Rs.
(*a*) at least two members entitled to claim partition ..	14,400
(*b*) at least four members entitled to claim partition and ..	21,600
(*ii*) in every other case	7,200.

Explanation.—For the purposes of this paragraph, in the case of every Hindu undivided family governed by the Mitakshara law, a son shall be deemed to be entitled to claim partition of the co-parcenary property against his father or grandfather, notwithstanding any custom to the contrary.

B. In the case of every company—

	Rate	*Surcharge*
On the whole of total income ..	Four annas in the rupee	One-twentieth of the rate specified in the preceding column :

Provided that in the case of a company which, in respect of its profits liable to tax under the Income-tax Act for the year ending on the 31st day of March, 1956, has made the prescribed arrangements for the declaration and payment

within the territory of India, of the dividends payable out of such profits, and has deducted super-tax from the dividends in accordance with the provisions of sub-section (3D) of section 18 of that Act— Div. 5 A

(*i*) where the total income, as reduced by seven annas in the rupee and by the amount, if any, exempt from income-tax, exceeds the amount of any dividends (including dividends payable at a fixed rate) declared in respect of the whole or part of the previous year for the assessment for the year ending on the 31st day of March, 1956, and the company is a company to which the provisions of section 23A of the Income-tax Act cannot be made applicable, a rebate shall be allowed at the rate of one anna per rupee on the amount of such excess ;

(*ii*) where the amount of dividends referred to in clause (*i*) above exceeds the total income as reduced by seven annas in the rupee and by the amount, if any, exempt from income-tax, there shall be charged on the total income an additional income-tax equal to the sum, if any, by which the aggregate amount of income-tax actually borne by such excess (hereinafter referred to as "the excess dividend") falls short of the amount calculated at the rate of five annas per rupee on the excess dividend.

For the purposes of the above proviso, the expression "dividend" shall have the meaning assigned to it in clause (6A) of section 2 of the Income-tax Act, but any distribution included in that expression, made during the year ending on the 31st day of March, 1956, shall be deemed to be a dividend declared in respect of the whole or part of the previous year.

For the purposes of clause (*ii*) of the above proviso, the aggregate amount of income-tax actually borne by the excess dividend shall be determined as follows :—

(*i*) the excess dividend shall be deemed to be out of the whole or such portion of the undistributed profits of one or more years immediately preceding the previous year as would be just sufficient to cover the amount of the excess dividend and as have not likewise been taken into account to cover an excess dividend of a preceding year ;

(*ii*) such portion of the excess dividend as is deemed to be out of the undistributed profits of each of the said years shall be deemed to have borne tax,—

(*a*) if an order had been made under sub-section (1) of section 23A of the Income-tax Act, in respect of the undistributed profits of that year, at the rate of five annas in the rupee, and

(*b*) in respect of any other year, at the rate applicable to the total income of the company for that year reduced by the rate at which rebate, if any, was allowed on the undistributed profits.

C. In the case of every local authority and in every case in which, under the provisions of the Income-tax Act, income-tax is to be charged at the maximum rate—

	Rate	*Surcharge*
On the whole of total income	.. Four annas in the rupee	One-twentieth of the rate specified in the preceding column.

Div. 5 A

Part II

RATES OF SUPER-TAX

A. In the case of every individual, Hindu undivided family, unregistered firm and other association of persons, not being a case to which any other paragraph of this Part applies—

	Rate	*Surcharge*
1. On the first Rs. 20,000 of total income	Nil	Nil
2. On the next Rs. 5,000 of total income	One anna in the rupee	One-twentieth of the rate specified in the preceding column
3. On the next Rs. 15,000 of total income	Three annas in the rupee	Do.
4. On the next Rs. 10,000 of total income	Five annas in the rupee	Do.
5. On the next Rs. 10,000 of total income	Six annas in the rupee	Do.
6. On the next Rs. 20,000 of total income	Seven annas in the rupee	Do.
7. On the next Rs. 20,000 of total income	Eight annas in the rupee	Do.
8. On the next Rs. 50,000 of total income	Nine annas in the rupee	Do.
9. On the balance of total income ..	Nine and a half annas in the rupee	Do.

B. In the case of every local authority—

	Rate	*Surcharge*
On the whole of total income ..	Two and a half annas in the rupee	Three pies in the rupee.

C. In the case of an association of persons being a co-operative society as defined in clause (5B) of section 2 of the Income-tax Act (other than the Sanikatta Saltowners' Society in the State of Bombay)—

	Rate	*Surcharge*
1. On the first Rs. 25,000 of total income	Nil	Nil
2. On the balance of total income ..	Two and a half annas in the rupee	Three pies in the rupee.

D. In the case of every company—

	Rate
On the whole of total income	Four annas and nine pies in the rupee :

Div. 5 A

Provided that—

(*i*) a rebate at the rate of three annas per rupee of the total income shall be allowed in the case of any company which—

(*a*) in respect of its profits liable to tax under the Income-tax Act for the year ending on the 31st day of March, 1956, has made the prescribed arrangements for the declaration and payment in India of the dividend payable out of such profits and for the deduction of super-tax from dividends in accordance with the provisions of sub-section (3D) of section 18 of that Act, and

(*b*) is a public company with total income not exceeding Rs. 25,000 ;

(*ii*) a rebate at the rate of two annas per rupee of the total income shall be allowed in the case of any company which satisfies condition (*a*), but not condition (*b*), of the preceding clause ; and

(*iii*) a rebate at the rate of one anna and six pies per rupee on so much of the total income as consists of dividends from a subsidiary Indian company, and a rebate at the rate of six pies per rupee on any other income included in the total income shall be allowed in the case of any company which, not being entitled to a rebate under either of the preceding clauses, is—

(*a*) a public company, or

(*b*) a company all of whose shares were held at the end of the previous year by one or more public companies :

Provided further that the super-tax payable by a company the total income of which exceeds Rs. 25,000 shall not exceed the aggregate of—

(*a*) the super-tax which would have been payable by the company if its total income had been Rs. 25,000, and

(*b*) half the amount by which its total income exceeds Rs. 25,000.

Explanation.—For the purposes of this paragraph of this Part, a company shall be deemed to be a public company only if it is a company in which the public are substantially interested within the meaning of the Explanation to section 23A of the Income-tax Act.

* * * * *

THE FINANCE ACT, 1956

(ACT NO. XVIII OF 1956)

(Received the assent of the President on the 27th April, 1956.)

1. Short title.—This Act may be called the Finance Act, 1956.

2. Income-tax and super-tax.—(1) Subject to the provisions of sub-sections (2), (3), (4) and (5), for the year beginning on the 1st day of April, 1956,—

(*a*) income-tax shall be charged at the rates specified in Part I of the First Schedule, increased in the cases to which paragraphs A, B and C of that Part apply, by a surcharge for purposes of the Union at the rate specified therein in respect of each such rate of income-tax, and

(*b*) rates of super-tax shall, for the purposes of section 55 of the Indian Income-tax Act, 1922 (XI of 1922) (hereinafter referred to as the Income-tax Act), be those specified in Part II of the First Schedule, increased in the cases to which paragraphs A, B and C of that Part apply, by a surcharge for purposes of the Union at the rate specified therein in respect of each such rate of super-tax.

(2) In making any assessment for the year ending on the 31st day of March, 1957, there shall be deducted from the total income of an assessee, in respect of the earned income, if any, included therein,—

(*a*) where such earned income does not exceed twenty-five thousand rupees, an amount equal to one-fifth of such earned income but not exceeding in any case four thousand rupees ;

(*b*) where such earned income exceeds twenty-five thousand rupees, the amount, if any, arrived at after deducting from four thousand rupees one-fifth of such excess.

(3) In making any assessment for the year ending on the 31st day of March, 1957,—

(*a*) where the total income of an assessee, not being a company, includes any income chargeable under the head "Salaries" as reduced by the deduction for earned income appropriate thereto, or any income chargeable under the head "Interest on securities," or any income from dividends in respect of which by virtue of section 49B of the Income-tax Act he is deemed himself to have paid the income-tax imposed under that Act, the income-tax payable by the assessee on that part of his total income which consists of such inclusions shall be an amount bearing to the total amount of income-tax payable according to the rates applicable under the operation of the Finance Act, 1955 (XV of 1955), on his total income the same proportion as the amount of such inclusions bears to his total income ;

(*b*) where the total income of an assessee, not being a company, includes any income chargeable under the head "Salaries" on which super-tax has been or might have been deducted under the provisions of sub-section (2) of section 18 of the Income-tax Act, the super-tax payable by the assessee on that portion of his total income which consists of

such inclusion shall be an amount bearing to the total amount of super-tax payable according to the rates applicable under the operation of the Finance Act, 1955 (XV of 1955), on his total income the same proportion as the amount of such inclusion bears to his total income.

(4) In making any assessment for the year ending on the 31st day of March, 1957,—

(*a*) where the total income of a company includes any profits and gains from life insurance business, the super-tax otherwise payable by the company on the whole of such total income shall be reduced by an amount which bears to that super-tax the same proportion as the amount of such inclusion bears to its total income or by an amount computed at the rate of—

(*i*) two annas in the rupee in the case of a mutual insurance company as defined in section 95 of the Insurance Act, 1938 (IV of 1938), and

(*ii*) one-and-a-half annas in the rupee in the case of any other company,

on the amount of such inclusion, whichever is less;

(*b*) where the total income of an assessee, not being a company, includes any profits and gains from life insurance business, the income-tax and super-tax payable by the assessee on that part of his total income which consists of such inclusion shall be an amount bearing to the total amount of such taxes payable on his total income according to the rates applicable under the operation of the Indian Finance Act, 1942 (XII of 1942), increased in respect of each such rate by one-twentieth thereof, the same proportion as the amount of such inclusion bears to his total income, so however that the aggregate of the taxes so computed in respect of such inclusion shall not in any case exceed the amount of tax payable on such inclusion at the rate of five annas in the rupee.

(5) In cases to which section 17 of the Income-tax Act applies, the tax chargeable shall be determined as provided in that section, and with reference to the rates imposed by sub-section (1), and in accordance with the provisions of sub-sections (2), (3) and (4) of this section, wherever applicable.

(6) For the purposes of making any deduction of income-tax in the year beginning on the 1st day of April, 1956, under sub-section (2) or sub-section (2B) of section 18 of the Income-tax Act, from any earned income chargeable under the head "Salaries", the estimated total income of the assessee under that head shall, in computing the income-tax to be deducted, be reduced—

(*i*) where such earned income does not exceed twenty-five thousand rupees, by an amount equal to one-fifth of such earned income but not exceeding in any case four thousand rupees;

(*ii*) where such earned income exceeds twenty-five thousand rupees, by the amount, if any, arrived at after deducting from four thousand rupees one-fifth of such excess;

but no abatement shall be allowed by the person responsible for paying the salary in respect of any donations made by the assessee to which section 15B of the Income-tax Act is, or may be, applicable.

Div. 5 A (7) For the purposes of this section and of the rates of tax imposed thereby, the expression "total income" means total income as determined for the purposes of income-tax or super-tax, as the case may be, in accordance with the provisions of the Income-tax Act, and the expression "earned income" has the meaning assigned to it in clause (6AA) of section 2 of that Act.

* * * * *

THE FIRST SCHEDULE

(See section 2)

Part I

RATES OF INCOME-TAX

A. (*i*) In the case of every individual who is married and every Hindu undivided family,—

	Rate	*Surcharge*
1. On the first Rs. 2,000 of total income	Nil	Nil
2. On the next Rs. 3,000 of total income	Nine pies in the rupee	One-twentieth of the rate specified in the preceding column
3. On the next Rs. 2,500 of total income	One anna and nine pies in the rupee	Do.
4. On the next Rs. 2,500 of total income	Two annas and three pies in the rupee	Do.
5. On the next Rs. 5,000 of total income	Three annas and three pies in the rupee	Do.
6. On the balance of total income ..	Four annas in the rupee	Do.

(*ii*) In the case of every individual who is not married and every unregistered firm or other association of persons, not being a case to which paragraph B or paragraph C or paragraph D of this Part applies,— **Div. 5 A**

	Rate	*Surcharge*
1. On the first Rs. 1,000 of total income	Nil	Nil
2. On the next Rs. 4,000 of total income	Nine pies in the rupee	One-twentieth of the rate specified in the preceding column
3. On the next Rs. 2,500 of total income	One anna and nine pies in the rupee	Do.
4. On the next Rs. 2,500 of total income	Two annas and three pies in the rupee	Do.
5. On the next Rs. 5,000 of total income	Three annas and three pies in the rupee	Do.
6. On the balance of total income ..	Four annas in the rupee	Do. :

Provided that—

(*i*) no income-tax shall be payable on a total income which, before deduction of the allowance, if any, for earned income, does not exceed the limit specified below ;

(*ii*) the income-tax payable shall in no case exceed half the amount by which the total income (before deduction of the said allowance, if any, for earned income) exceeds the said limit ;

(*iii*) the income-tax payable on the total income as reduced by the allowance for earned income shall not exceed either—

(*a*) a sum bearing to half the amount by which the total income (before deduction of the allowance for earned income) exceeds the said limit the same proportion as such reduced total income bears to the unreduced total income, or

(*b*) the income-tax payable on the income so reduced at the rates herein specified,—

whichever is less.

The limit referred to in the above proviso shall be—

(*i*) in the case of every Hindu undivided family which as at the end of the previous year had—

	Rs.
(*a*) at least two members entitled to claim partition ..	8,400
(*b*) at least four members entitled to claim partition ..	12,600 :

Div. 5 A

Provided that in the case referred to in sub-clause (*a*) none of the members and in the case referred to in sub-clause (*b*) none of the minimum number of four members,—

(*a*) is less than eighteen years of age, or

(*b*) is lineally descended from another member or along with another member is lineally descended from any other living member of the family not entitled to claim partition, and

(*ii*) in every other case .. .. Rs. 4,200 :

Provided further that—

(*i*) no surcharge shall be payable on a total income which, before deduction of the allowance, if any, for earned income, does not exceed the limit specified below ;

(*ii*) the surcharge payable shall in no case exceed half the amount by which the total income (before deduction of the said allowance, if any, for earned income) exceeds the said limit.

The limit referred to in the above proviso shall be—

(*i*) in the case of every Hindu undivided family which satisfies the conditions laid down in the preceding proviso and had as at the end of the previous year—

	Rs.
(*a*) at least two members entitled to claim partition ..	14,400
(*b*) at least four members entitled to claim partition and ..	21,600

(*ii*) in every other case .. .. 7,200.

Explanation.—For the purposes of this paragraph, in the case of every Hindu undivided family governed by the Mitakshara law, a son shall be deemed to be entitled to claim partition of the co-parcenary property against his father or grandfather, notwithstanding any custom to the contrary.

B. In the case of every company—

	Rate	*Surcharge*
On the whole of total income ..	Four annas in the rupee	One-twentieth of the rate specified in the preceding column.

C. In the case of every local authority and in every case in which, under the provisions of the Income-tax Act, income-tax is to be charged at the maximum rate—

	Rate	*Surcharge*
On the whole of total income ..	Four annas in the rupee	One-twentieth of the rate specified in the preceding column.

D. In the case of every registered firm—

	Rate
On the first Rs. 40,000 of total income	Nil
On the next Rs. 35,000 of total income	Nine pies in the rupee
On the next Rs. 75,000 of total income	One anna in the rupee
On the balance of total income	One anna and six pies in the rupee.

Part II

Div. 5 A

RATES OF SUPER-TAX

A. In the case of every individual, Hindu undivided family, unregistered firm and other association of persons, not being a case to which any other paragraph of this Part applies—

	Rate	*Surcharge*
1. On the first Rs. 20,000 of total income	Nil	Nil
2. On the next Rs. 5,000 of total income	One anna in the rupee	One-twentieth of the rate specified in the preceding column
3. On the next Rs. 15,000 of total income	Three annas in the rupee	Do.
4. On the next Rs. 10,000 of total income	Five annas in the rupee	Do.
5. On the next Rs. 10,000 of total income	Six annas in the rupee	Do.
6. On the next Rs. 10,000 of total income	Seven annas in the rupee	Do.
7. On the next Rs. 10,000 of total income	Seven and a half annas in the rupee	Do.
8. On the next Rs. 10,000 of total income	Eight annas in the rupee	Do.
9. On the next Rs. 10,000 of total income	Eight and a half annas in the rupee	Do.
10. On the next Rs. 20,000 of total income	Nine annas in the rupee	Do.
11. On the next Rs. 30,000 of total income	Nine and a half annas in the rupee	Do.
12. On the balance of total income ..	Ten annas in the rupee	Do.

B. In the case of every local authority—

	Rate	*Surcharge*
On the whole of total income	Two and a half annas in the rupee	Three pies in the rupee.

C. In the case of an association of persons being a co-operative society as defined in clause (5B) of section 2 of the Income-tax Act—

	Rate	*Surcharge*
1. On the first Rs. 25,000 of total income	Nil	Nil
2. On the balance of total income ..	Two and a half annas in the rupee	Three pies in the rupee.

D. In the case of every company—

	Rate
On the whole of total income	Six annas and nine pies in the rupee :

Div. 5 A

Provided that—

(*i*) a rebate at the rate of five annas per rupee of the total income shall be allowed in the case of any company which—

(*a*) in respect of its profits liable to tax under the Income-tax Act for the year ending on the 31st day of March, 1957, has made the prescribed arrangements for the declaration and payment within the territory of India of the dividends payable out of such profits and for the deduction of super-tax from dividends in accordance with the provisions of sub-section (3D) of section 18 of that Act, and

(*b*) is a public company with total income not exceeding Rs. 25,000 to which the provisions of section 23A cannot be made applicable ;

(*ii*) a rebate at the rate of four annas per rupee of the total income shall be allowed in the case of any company which satisfies condition (*a*), but not condition (*b*), of the preceding clause ; and

(*iii*) a rebate at the rate of three annas and six pies per rupee on so much of the total income as consists of dividends from a subsidiary Indian company, and a rebate at the rate of one anna per rupee on any other income included in the total income shall be allowed in the case of any company not entitled to a rebate under either of the preceding clauses :

Provided further that—

(*i*) the amount of the rebate under clause (*i*) or clause (*ii*), as the case may be, of the preceding proviso shall be reduced by the sum, if any, equal to the amount or the aggregate of the amounts, as the case may be, computed as hereunder :—

(*a*) on the amount representing the face value of any bonus shares or the amount of any bonus issued to its shareholders during the previous year with a view to increasing the paid-up capital, except to the extent to which such bonus shares or bonus have been issued out of premiums received in cash on the issue of its shares ; and	at the rate of two annas per rupee
(*b*) in addition, in the case of a company referred to in clause (*ii*) of the preceding proviso which has distributed to its shareholders during the previous year dividends in excess of six per cent of its paid-up capital, not being dividends payable at a fixed rate—	
on that part of the said dividends which exceeds 6 per cent but does not exceed 10 per cent of the paid-up capital ;	at the rate of two annas per rupee
on that part of the said dividends which exceeds 10 per cent of the paid-up capital ;	at the rate of three annas per rupee ;

(*ii*) where the sum arrived at in accordance with sub-clause (*a*) or sub-clause (*b*) or both the sub-clauses of clause (*i*) of this proviso exceeds the amount of the rebate arrived at in accordance with clause (*i*) or clause (*ii*), as the case may be, of the preceding proviso, only so much of the amounts—

(*a*) issued as bonus shares or as bonus, and

(*b*) distributed as dividends,

as is sufficient, in that order, in accordance with the rates specified in clause (*i*) of this proviso, to reduce the rebate to *nil*, shall be deemed to have been taken into account for the purpose :

Provided further that the super-tax payable by a company the total income of which exceeds Rs. 25,000 shall not exceed the aggregate of—

(*a*) the super-tax which would have been payable by the company if its total income had been Rs. 25,000, and

(*b*) half the amount by which its total income exceeds Rs. 25,000.

Explanation.—For the purposes of Paragraph D of this Part—

(*i*) the expression "paid-up capital" means the paid-up capital (other than capital entitled to a dividend at a fixed rate) of the company as on the first day of the previous year relevant to the assessment for the year ending on 31st day of March, 1957, increased by any premiums received in cash by the company on the issue of its shares, standing to the credit of the share premium account as on the first day of the previous year aforesaid ;

(*ii*) the expression "dividend" shall be deemed to include any distribution included in the expression "dividend" as defined in clause (6A) of section 2 of the Income-tax Act ;

(*iii*) where any portion of the profits and gains of the company is not included in its total income by reason of such portion being exempt from tax under any provision of the Income-tax Act, the amount of the "paid-up capital" of the company, the amount distributed as dividends (not being dividends payable at a fixed rate), the amount representing the face value of any bonus shares and the amount of any bonus issued to the shareholders, shall each be deemed to be such proportion thereof as the total income of the company for the previous year bears to its total profits and gains for that year other than capital gains or capital receipts, reduced by such allowances as may be admissible under the Income-tax Act which have not been taken into account by the company in its profit and loss account for that year.

THE FINANCE (NO. 2) ACT, 1957

(ACT No. XXVI OF 1957)

(Received the assent of the President on the 11th September, 1957.)

1. **Short title.**—This Act may be called the Finance (No. 2) Act, 1957.

2. **Income-tax and super-tax.**—(1) Subject to the provisions of sub-sections (2), (3), (4) and (5) for the year beginning on the 1st day of April, 1957,—

(*a*) income-tax shall be charged at the rates specified in Part I of the First Schedule, and, in the cases to which Paragraphs A, B and C of that Part apply, shall be increased by a surcharge for purposes of the Union and a special surcharge on unearned income, calculated in either case in the manner provided therein ; and

(*b*) super-tax shall, for the purposes of section 55 of the Indian Income-tax Act, 1922 (XI of 1922) (hereinafter referred to as the Income-tax Act), be charged at the rates specified in Part II of the First Schedule, and, in the cases to which Paragraphs A, B and C of that Part apply, shall be increased by a surcharge for purposes of the Union and a special surcharge on unearned income, calculated in either case in the manner provided therein.

(2) In making any assessment for the year ending on the 31st day of March, 1958, there shall be deducted from the total income of an assessee, in respect of the earned income, if any, chargeable under the head "Salaries" included therein,—

(*a*) an amount equal to one-fifth of such earned income, but not exceeding in any case four thousand rupees, or

(*b*) the amount, if any, arrived at after deducting from four thousand rupees one-fifth of the amount by which the aggregate of all earned incomes included in the total income under whatever head they are chargeable exceeds twenty-five thousand rupees,

whichever is less.

(3) In making any assessment for the year ending on the 31st day of March, 1958,—

(*a*) where the total income of an assessee, not being a company, includes any income chargeable under the head "Salaries" as reduced by the deduction for earned income appropriate thereto, or any income chargeable under the head "Interest on Securities", or any income from dividends in respect of which by virtue of section 49B of the Income-tax Act he is deemed himself to have paid the income-tax imposed under that Act, the income-tax payable by the assessee on that part of his total income which consists of such inclusions shall be an amount bearing to the total amount of income-tax payable according to the rates applicable under the operation of the Finance Act, 1956 (XVIII of 1956), on his total income the same proportion as the amount of such inclusions bears to his total income ;

(*b*) where the total income of an assessee, not being a company, includes any income chargeable under the head "Salaries" on which super-tax has been or might have been deducted under the provisions of sub-section (2) of section 18 of the Income-tax Act, the super-tax payable by the assessee on that portion of his total income which consists of such inclusion shall be an amount bearing to the total amount of super-tax payable according to the rates applicable under the operation of the Finance Act,

1956 (XVIII of 1956), on his total income the same proportion as the amount of such inclusion bears to his total income. **Div. 5 A**

(4) In making any assessment for the year ending on the 31st day of March, 1958,where the total income of a company includes any profits and gains from life insurance business, the super-tax otherwise payable by the company on the whole of such total income shall be reduced by an amount which bears to that super-tax the same proportion as the amount of such inclusion bears to its total income, or by an amount computed at the rate of—

(*i*) twelve per cent in the case of a mutual insurance company as defined in section 95 of the Insurance Act, 1938 (IV of 1938); and

(*ii*) nine per cent in the case of any other company, on the amount of such inclusion,

whichever is less.

(5) In cases to which section 17 of the Income-tax Act applies, the tax chargeable shall be determined as provided in that section, and with reference to the rates imposed by sub-section (1), and in accordance with the provisions of sub-sections (2), (3) and (4) of this section, wherever applicable.

(6) For the purposes of this section, and of the rates of tax imposed thereby, the expression "total income" means total income as determined for the purposes of income-tax or super-tax, as the case may be, in accordance with the provisions of the Income-tax Act, and the expression "earned income" has the meaning assigned to it in clause (6AA) of section 2 of that Act.

* * * * *

11. Commencement of amendments to Act 11 of 1922.—(1) The amendments to the Income-tax Act made by sections 3, 9 and 10 shall, for the purposes of making any deduction of income-tax under sub-section (2) or sub-section (2B) of section 18 of the Income-tax Act, have effect on and from the first day of April, 1957, and for other purposes shall have effect on and from the first day of April, 1958.

(2) Save as otherwise provided in sub-section (1), the provisions of section 2 and the amendments to the Income-tax Act made by sections 3 to 10 inclusive shall be deemed to have come into force on the first day of April, 1957.

(3) Where any assessment for the year ending on the thirty-first day of March, 1958, has been completed or a notice of demand has been issued before the commencement of this Act, the Income-tax Officer shall, wherever necessary, revise the assessment or issue a revised notice of demand, as the case may be, conformably to the provisions of this Act.

(4) For the removal of doubts, it is hereby declared that the provisions of section 23A of the Income-tax Act, as in force immediately before the 1st day of April, 1957, shall continue to apply to a company in respect of its profits and gains of a previous year relevant to any assessment year prior to the assessment year ending on the 31st day of March, 1958.

* * * * *

15. Repeals.—(1) Sections 31 and 37 of, and the Third and Fourth Schedules to, the Finance Act, 1956 (XVIII of 1956), and section 5 of the Finance Act, 1957 (V of 1957), are hereby repealed.

(2) Section 8 of the Finance (No. 3) Act, 1956 (LXXVII of 1956), and section 2 of the Finance Act, 1957 (V of 1957), are hereby repealed and shall be deemed never to have been enacted.

* * * * *

Div. 5 A

THE FIRST SCHEDULE

(See section 2)

PART I

Income-tax and surcharge on income-tax

Paragraph A

(*i*) In the case of every individual who is married and every Hindu undivided family whose total income does not exceed Rs. 20,000 in either case:—

RATES OF INCOME-TAX

	Where the individual has no child wholly or mainly dependent on him or where the Hindu undivided family has no minor coparcener	Where the individual has one child wholly or mainly dependent on him or where the Hindu undivided family has one minor coparcener	Where the individual has more than one child wholly or mainly dependent on him or where the Hindu undivided family has more than one minor coparcener
	Rs. of total income	Rs. of total income	Rs. of total income
1. On the first	3,000 ,,	3,300 ,,	3,600 ,, Nil
2. On the next	2,000 ,,	1,700 ,,	1,400 ,, 3%
3. On the next	2,500 ,,	2,500 ,,	2,500 ,, 6%
4. On the next	2,500 ,,	2,500 ,,	2,500 ,, 9%
5. On the next	2,500 ,,	2,500 ,,	2,500 ,, 11%
6. On the next	2,500 ,,	2,500 ,,	2,500 ,, 14%
7. On the next	5,000 ,,	5,000 ,,	5,000 ,, 18%

(*ii*) In the case of every individual who is not married and every individual or Hindu undivided family whose total income in either case *exceeds* Rs. 20,000 and in the case of every unregistered firm or other association of persons, not being a case to which *Paragraph B* or *Paragraph C* or *Paragraph D* of this Part applies :—

	Rs.	of total income	
1. On the first	1,000	—do.—	Nil
2. On the next	4,000	—do.—	3%
3. On the next	2,500	—do.—	6%
4. On the next	2,500	—do.—	9%
5. On the next	2,500	—do.—	11%
6. On the next	2,500	—do.—	14%
7. On the next	5,000	—do.—	18%
8. On the balance of total income		—do.—	25% :

Provided that for the purposes of this Paragraph—

(*i*) no income-tax shall be payable on a total income which does not exceed the limit specified below ;

(*ii*) the income-tax payable shall in no case exceed half the amount by which the total income exceeds the said limit;

(*iii*) the income-tax payable by an individual who is married or a Hindu undivided family whose total income exceeds in either case Rs. 20,000 shall not exceed the aggregate of—

(*a*) the income-tax which would have been payable if the total income had been Rs. 20,000 ;

(*b*) half the amount by which the total income exceeds Rs. 20,000 ;

The limit aforesaid shall be

(*i*) Rs. 6,000 in the case of every Hindu undivided family which as at the end of the previous year satisfies either of the following conditions, namely :—

(*a*) that it has at least two members entitled to claim partition who are not less than eighteen years of age ; or

(*b*) that it has at least two members entitled to claim partition who are not lineally descended one from the other and who are not lineally descended from any other living member of the family ;

(*ii*) Rs. 3,000 in every other case.

SURCHARGES ON INCOME-TAX

The amount of income-tax computed at the rates hereinbefore specified shall be increased by the aggregate of the surcharges calculated as under :

(*a*) A surcharge for purposes of the Union equal to the sum of—

(*i*) five per cent of the amount of income-tax ; and

(*ii*) where the earned income included in the total income exceeds Rs. 1,00,000, five per cent of the difference between the amount of income-tax which would have been payable on the whole of the earned income included in the total income if such earned income had been the total income and the amount of income-tax payable on a total income of Rs. 1,00,000 ;

(*b*) A special surcharge on unearned income at fifteen per cent of the difference between the amount of income-tax on the total income and the amount of income-tax on the whole of the earned income, if any, included in the total income of such earned income had been the total income :

Provided that—

(*i*) no surcharge for purposes of the Union shall be payable where the total income does not exceed the limit specified below ;

(*ii*) no special surcharge on unearned income shall be payable in the case of an assessee whose total income does not include any income from dividend on ordinary shares if his total income does not exceed the limit specified below, and where the total income includes any dividends on ordinary shares, such limit shall be increased by Rs. 1,500 or the amount of the said dividends, whichever is less :

Provided further that—

(*a*) where the total income includes any dividends on ordinary shares, the surcharge for purposes of the Union and the special surcharge on unearned income shall not in each case exceed half the amount by which the total income exceeds the respective limits applicable in either case ;

(*b*) the surcharge for purposes of the Union and the special surcharge on unearned income, both together, shall not exceed half the amount by which the total income exceeds the limit specified below.

The limit aforesaid shall be—

(*i*) Rs. 15,000 in the case of every Hindu undivided family which satisfies as at the end of the previous year either of the following conditions, namely :—

(*a*) that it has at least two members entitled to claim partition who are not less than eighteen years of age ; or

Div. 5 A

(*b*) that it has at least two members entitled to claim partition who are not lineally descended one from the other and who are not lineally descended from any other living member of the family;

(*ii*) Rs. 7,500 in every other case.

Explanation.—For the purposes of this paragraph, in the case of every Hindu undivided family governed by the Mitakshara law, a son shall be deemed to be entitled to claim partition of the coparcenary property against his father, or grandfather notwithstanding any custom to the contrary.

Paragraph B

In the case of every company and local authority,—

RATES OF INCOME-TAX

On the whole of the total income	30%

SURCHARGE ON INCOME-TAX

The amount of income-tax computed at the rate hereinbefore specified shall be increased by a surcharge of 5 per cent thereon.

Paragraph C

(1) In every case in which under the provisions of the Income-tax Act, income-tax is to be charged at the maximum rate,—

RATES OF INCOME-TAX

On the whole of the total income	25%

SURCHARGE ON INCOME-TAX

The amount of income-tax computed at the rate hereinbefore specified shall be increased by a surcharge of 20 per cent thereon.

(2) In every case in which under the provisions of the Income-tax Act, income-tax is to be deducted at the maximum rate, deduction shall be made from the whole income which is to be subjected to such deduction at the following rates, namely :—

	Rate of income-tax on the whole income	*Rate of surcharge on the whole income*
In the case of every company	30%	1·5%
In any other case	25%	5%

Paragraph D

In the case of every registered firm,—

RATES OF INCOME-TAX

1. On the first Rs. 40,000 of total income	Nil
2. On the next Rs. 35,000 of total income	5%
3. On the next Rs. 75,000 of total income	6%
4. On the balance of total income	9%

PART II

Div. 5 A

Super-tax and surcharge on super-tax

Paragraph A

In the case of every individual, Hindu undivided family, unregistered firm and other association of persons, not being a case to which any other paragraph of this Part applies,—

RATES OF SUPER-TAX

1. On the first Rs. 20,000 of total income	Nil
2. On the next Rs. 5,000 of total income	5%
3. On the next Rs. 5,000 of total income	15%
4. On the next Rs. 10,000 of total income	20%
5. On the next Rs. 10,000 of total income	30%
6. On the next Rs. 10,000 of total income	35%
7. On the next Rs. 10,000 of total income	40%
8. On the balance of total income	45%

SURCHARGES ON SUPER-TAX

The amount of super-tax computed at the rates hereinbefore specified shall be increased by the aggregate of the surcharges calculated as under :

(*a*) A surcharge for purposes of the Union equal to the sum of,—

(*i*) five per cent of the amount of super-tax ; and

(*ii*) where the earned income included in the total income exceeds Rs. 1,00,000, five per cent of the difference between the amount of super-tax which would have been payable on the whole of the earned income included in the total income, if such earned income had been the total income, and the amount of super-tax payable on a total income of Rs. 1,00,000 ;

(*b*) A special surcharge on unearned income at fifteen per cent of the difference between the amount of super-tax on the total income and the amount of super-tax on the whole of the earned income, if any, included in the total income, if such earned income has been the total income.

Paragraph B

In the case of every local authority,—

RATE OF SUPER-TAX

On the whole of the total income	16%

SURCHARGE ON SUPER-TAX

The amount of super-tax computed at the rate hereinbefore specified shall be increased by a surcharge of 12½ per cent thereon.

Paragraph C

In the case of every association of persons being a co-operative society as defined in clause (5B) of section 2 of the Income-tax Act,—

RATES OF SUPER-TAX

1. On the first Rs. 25,000 of total income	Nil
2. On the balance of total income	16%

SURCHARGE ON SUPER-TAX

The amount of super-tax computed at the rates hereinbefore specified shall be increased by a surcharge of 12½ per cent thereon.

Paragraph D

In the case of every company,—

RATES OF SUPER-TAX

On the whole of the total income	50%

Div. 5 A

Provided that,—

(*i*) a rebate at the rate of 40 per cent on so much of the total income as consists of dividends from a subsidiary Indian company and a rebate at the rate of 35 per cent on the balance of the total income shall be allowed in the case of any company which—

(*a*) in respect of its profits liable to tax under the Income-tax Act for the year ending on the 31st day of March, 1958, has made the prescribed arrangements for the declaration and payment within India of the dividends payable out of such profits and for the deduction of super-tax from dividends in accordance with the provisions of sub-section (3D) of section 18 of that Act ; and

(*b*) is such a company as is referred to in sub-section (9) of section 23A of the Income-tax Act with a total income not exceeding Rs. 25,000 ;

(*ii*) a rebate at the rate of 40 per cent on so much of the total income as consists of dividends from a subsidiary Indian company and a rebate at the rate of 30 per cent on the balance of the total income shall be allowed in the case of any company which satisfies condition (*a*) but not condition (*b*) of the preceding clause;

(*iii*) a rebate at the rate of 40 per cent on so much of the total income as consists of dividends from a subsidiary Indian company and a rebate at the rate of 20 per cent on the balance of the total income shall be allowed in the case of any company not entitled to a rebate under either of the preceding clauses :

Provided further that,—

(*i*) the amount of the rebate under clause (*i*) or clause (*ii*) shall be reduced by the sum, if any, equal to the amount or the aggregate of the amounts, as the case may be, computed as hereunder :—

(*a*) on that part of the sum arrived at in accordance with clause (*i*) of the second proviso to paragraph D of Part II of the First Schedule to the Finance Act, 1956, as is referable to that amount of bonus shares, bonus or dividends, as the case may be, which has not been deemed to have been taken into account, in accordance with clause (*ii*) of the said proviso, for the purpose of reducing the rebate mentioned therein to nil ;	the whole amount of such part
(*b*) on the amount representing the face value of any bonus shares or the amount of any bonus issued to its shareholders during the previous year with a view to increasing the paid-up capital except to the extent to which such bonus shares or bonus have been issued out of premiums received in cash on the issue of its shares ; and	at the rate of 30 per cent
(*c*) in addition, in the case of a company referred to in clause (*ii*) of the preceding proviso which has distributed to its shareholders during the previous year	

dividends in excess of six per cent of its paid-up capital, not being dividends payable at a fixed rate—	
on that part of the said dividends which exceeds 6 per cent but does not exceed 10 per cent of the paid-up capital;	at the rate of 10 per cent
on that part of the said dividends which exceeds 10 per cent but does not exceed 18 per cent of the paid-up capital;	at the rate of 20 per cent
on that part of the said dividends which exceeds 18 per cent of the paid-up capital;	at the rate of 30 per cent;

(*ii*) where the sum arrived at in accordance with clause (*i*) of this proviso exceeds the amount of the rebate arrived at in accordance with clause (*i*) or clause (*ii*), as the case may be, of the preceding proviso, only so much of the amounts of reduction mentioned in sub-clauses (*a*), (*b*) and (*c*) of clause (*i*) of this proviso as is sufficient, in that order, to reduce the rebate to *nil* shall be deemed to have been taken into account for the purpose :

Provided further that the super-tax payable by a company, the total income of which exceeds rupees twenty-five thousand shall not exceed the aggregate of—

(*a*) the super-tax which would have been payable by the company if its total income had been rupees twenty-five thousand, and

(*b*) half the amount by which its total income exceeds rupees twenty-five thousand.

Explanation.—For the purposes of this paragraph—

(*i*) the expression "paid-up capital" means the paid-up capital (other than capital entitled to a dividend at a fixed rate) of the company as on the first day of the previous year relevant to the assessment for the year ending on the 31st day of March, 1958, increased by any premiums received in cash by the company on the issue of its shares, standing to the credit of the share premium account as on the first day of the previous year aforesaid ;

(*ii*) the expression "dividend" shall be deemed to include any distribution included in the expression "dividend" as defined in clause (6A) of section 2 of the Income-tax Act ;

(*iii*) where any portion of the profits and gains of the company is not included in its total income by reason of such portion being exempt from tax under any provision of the Income-tax Act, the "paid-up capital" of the company, the amount distributed as dividends (not being dividends payable at a fixed rate), the amount representing the face value of any bonus shares and the amount of any bonus issued to the shareholders shall each be deemed to be such proportion thereof as the total income of the company for the previous year bears to its total profits and gains for that year other than capital receipts, reduced by such allowances as may be admissible under the Income-tax Act which have not been taken into account by the company in its profit and loss account for that year.

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THE BUSINESS PROFITS TAX ACT, 1947

(ACT No. XXI OF 1947)

(*Received the assent of the Governor-General on the 11th April*, 1947.)

An Act to impose a special tax on a certain class of income.

Whereas it is expedient to impose a special tax on income arising from business;

It is hereby enacted as follows :—

1. Short title, extent and commencement.—(1) This Act may be called the Business Profits Tax Act, 1947.

(2) It extends to the whole of [1][India except [1a][the territories which, immediately before the 1st November, 1956, were comprised in Part B States]].

(3) [2]It shall come into force on such date as the Central Government may, by notification in the official Gazette, appoint.

2. Interpretation.—In this Act, unless there is anything repugnant in the subject or context,—

(1) "abatement" means, in respect of any chargeable accounting period [3][ending on or before the 31st day of March, 1947,] a sum which bears to a sum equal to—

(*a*) in the case of a company, not being a company deemed for the purposes of section 9 to be a firm, six per cent of the capital of the company on the first day of the said period computed in accordance with Schedule II, or one lakh of rupees, whichever is greater, or

(*b*) in the case of a firm having—

(*i*) not more than two working partners, one lakh of rupees, or

(*ii*) three working partners, one and a half lakhs of rupees, or

(*iii*) four or more working partners, two lakhs of rupees, or

(*c*) in the case of a Hindu undivided family two lakhs of rupees, or

(*d*) in any other case, one lakh of rupees,—

the same proportion as the said period bears to the period of one year; [4][and, in respect of any chargeable accounting period beginning after the 31st day of March, 1947, such sum as may be fixed by the annual Finance Act;]

(2) "accounting period" in relation to any business means any period which is or has been determined as the previous year for that business for the purposes of the Indian Income-tax Act, 1922;

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[1] Substituted for "British India" by the Adaptation of Laws Order, 1950.

[1a] Substituted for "Part B States" by the Adaptation of Laws (No. 3) Order, 1956, with effect from the 1st November, 1956.

[2] The Act came into force on the 12th April, 1947;—*vide* Notification No. 7, dated the 12th April, 1947.

[3] Inserted by the Indian Finance Act, 1948.

[4] Inserted, *ibid.*

[5][(2A) * * * * *] Div. 5 B

(3) "business" includes any trade, commerce or manufacture, or any adventure in the nature of trade, commerce or manufacture, or any profession or vocation the profits of which are chargeable according to the provisions of section 10 of the Indian Income-tax Act, 1922 :

Provided that where the functions of a company or of a society incorporated by or under any enactment consist wholly or mainly in the holding of investments or other property, the holding of the investments or property shall be deemed for the purpose of this definition to be a business carried on by such company or society :

Provided further that all businesses to which this Act applies carried on by the same person shall be treated as one business for the purposes of this Act ;

(4) "chargeable accounting period" means—

(*a*) any accounting period falling wholly within the term beginning on the first day of April, 1946, and ending on the thirty-first day of March, [6][1949] ;

(*b*) where any accounting period falls partly within and partly without the said term, such part of that accounting period as falls within the said term :

[7][Provided that where an accounting period falls partly before, and partly after, the end of March, 1947, so much of that accounting period as falls before, and so much of that accounting period as falls after, the end of March, 1947, shall be deemed each to be a separate chargeable accounting period ;]

(5) "company" means a company as defined in the Indian Companies Act, 1913, [8][or a company formed and registered under a law in force in any of the [9][merged territories]] or formed in pursuance of an Act of Parliament [10][of the United Kingdom] or of Royal Charter or Letters Patent, or of an Act of the Legislature of a British possession or of a law of a [11][11*a** State], and includes any foreign association, whether incorporated or not, which the Central Board of Revenue may, by general or special order, declare to be a company for the purposes of this Act ;

(6) "control of a company" means control direct or indirect of more than one half of the voting power attached to the total issued paid-up share capital of the company, or control vested by its Memorandum and Articles of Association otherwise than by reference to such voting power :

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[5] Inserted by the India (Adaptation of Income-tax, Profits Tax and Revenue Recovery Acts) Order, 1947, and omitted by the Adaptation of Laws Order, 1950.

[6] Substituted for "1948" by the Indian Finance Act, 1949.

[7] Inserted by the Indian Finance Act, 1948.

[8] Inserted by the Taxation Laws (Extension to Merged States and Amendment) Act, 1949 (67 of 1949).

[9] Substituted for "merged States" by the Adaptation of Laws Order, 1950.

[10] Inserted, *ibid.*

[11] Substituted for "Indian State", *ibid.*

[11*a*] "Part B" omitted by the Adaptation of Laws (No. 3) Order, 1956, with effect from the 1st November, 1956.

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Provided that the voting power attached to shares held by a nominee or trustee for any person shall be deemed for the purpose of this definition to be held by that person;

(7) "deficiency of profits" means—

(*i*) where profits have been made in any chargeable accounting period, the amount by which such profits fall short of the abatement in respect of that period;

(*ii*) where a loss has been made in any chargeable accounting period, the amount of the loss added to the abatement in respect of that period;

(8) "director" includes any person occupying the position of a director by whatever name called and also includes any person who—

(*i*) is a manager of the company or concerned in the management of the business, and

(*ii*) is remunerated out of the funds of the business, and

(*iii*) is the beneficial owner of not less than twenty per cent of the ordinary share capital of the company;

[12][(8A) "director's remuneration" includes all remuneration payable by a company to a director thereof in respect of any services rendered to or employment with the company in any capacity whatever;]

(9) "dividend" has the same meaning as in section 2 of the Indian Income-tax Act, 1922;

(10) "firm," "partner" and "partnership" have the same meanings respectively as in the Indian Partnership Act, 1932;

(11) "fixed rate" in relation to dividends on share capital, other than ordinary share capital, includes a rate fluctuating in accordance with the maximum rate of income-tax;

(12) "loss" means a loss computed in the same manner as, for the purposes of this Act, profits are to be computed;

[13][(12A) * * * *]

(13) "ordinary share capital," in relation to a company, means all the issued share capital (by whatever name called) of the company, other than capital the holders whereof have a right to a dividend at a fixed rate but have no other right to share in the profits of the company;

(14) "person" includes a Hindu undivided family;

(15) "prescribed" means prescribed by rules made under this Act;

(16) "profits" means profits as determined in accordance with Schedule I;

(17) "taxable profits" means the amount by which the profits during a chargeable accounting period exceed the abatement in respect of that period;

[14][(17A) "taxable territories" shall have the meaning assigned to that expression by clause (14A) of section 2 of the Indian Income-tax Act, 1922;]

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[12] Inserted by the Income-tax and Business Profits Tax (Amendment) Act, 1948 (48 of 1948).

[13] Inserted by the Taxation Laws (Extension to Merged States and Amendment) Act, 1949 (67 of 1949), and omitted by the Adaptation of Laws Order, 1950.

[14] Inserted by the Adaptation of Laws Order, 1950.

(18) "working partner" of a firm means a partner thereof who is required by the terms of the contract of partnership to devote substantially the whole of his time to the business of the firm. Div. 5 B

3. **Tax authorities.**—(1) Every Commissioner of Income-tax, Appellate Assistant Commissioner of Income-tax, Inspecting Assistant Commissioner of Income-tax and Income-tax Officer shall have the like powers under this Act and in relation to the same area and cases as he exercises under the Indian Income-tax Act, 1922.

(2) All officers and persons employed in the execution of this Act shall observe and follow the orders, instructions and directions of the Central Board of Revenue :

Provided that no such orders, instructions or directions shall be given so as to interfere with the discretion of the Appellate Assistant Commissioner of Income-tax in the exercise of his appellate functions.

4. **Charge of tax.**—Subject to the provisions of this Act, there shall, in respect of any business to which this Act applies, be charged, levied and paid on the amount of the taxable profits during any chargeable accounting period, a tax (in this Act referred to as "business profits tax") [15][which shall, in respect of any chargeable accounting period ending on or before the 31st day of March, 1947, be equal to sixteen and two-thirds per cent of the taxable profits, and in respect of any chargeable accounting period beginning after that date, be equal to such percentage of the taxable profits as may be fixed by the annual Finance Act :]

Provided that—

(*a*) any profits which are, under the provisions of sub-section (3) of section 4 of the Indian Income-tax Act, 1922, exempt from income-tax,

(*b*) all profits from any business of life insurance,

(*c*) any sum paid to a business by or through the Central Government by way of bonus or subsidy,—

shall be totally exempt from business profits tax under this Act :

[16][Provided further that where the profits include any profits from an industrial undertaking which are exempt from income-tax under section 15C of the Indian Income-tax Act, 1922 (XI of 1922), the business profits tax otherwise payable on the whole of the taxable profits shall be reduced by an amount which bears to that business profits tax the same proportion as the amount of such inclusion bears to the whole profits.]

5. **Application of Act.**—This Act shall apply to every business of which any part of the profits made during the chargeable accounting period is chargeable to income-tax by virtue of the provisions of sub-clause (*i*) or sub-clause (*ii*) of clause (*b*) of sub-section (1) of section 4 of the Indian Income-tax Act, 1922, or of clause (*c*) of that sub-section :

Provided that this Act shall not apply to any business the whole of the profits of which accrue or arise without [17][the taxable territories] where such business is carried on by or on behalf of a person who is resident but not ordinarily resident in [17][the taxable territories,] unless the business is controlled in India :

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[15] Substituted by the Indian Finance Act, 1948.

[16] Added by the Taxation Laws (Extension to Merged States and Amendment) Act, 1949 (67 of 1949).

[17] Substituted for "British India" by the Adaptation of Laws Order, 1950.

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[18][Provided further that where the profits of a part only of a business carried on by a person who is not resident in [19][the taxable territories] or not ordinarily so resident accrue or arise in [19][the taxable territories] or are deemed under the Indian Income-tax Act, 1922, so to accrue or arise, then, except where the business being the business of a person who is resident, but not ordinarily resident, in [19][the taxable territories] is controlled in India, this Act shall apply only to such part of the business, and such part shall for all the purposes of this Act be deemed to be a separate business :]

Provided further that this Act shall not apply to any income, profits or gains of business accruing or arising within [20][any part of India to which this Act does not extend] unless such income, profits or gains are received or deemed under the provisions of the aforesaid Act to be received in or are brought into [19][the taxable territories] in any chargeable accounting period, or are assessable under section 42 of that Act.

6. **Relief on occurrence of deficiency of profits.**—Where a deficiency of profits occurs in any chargeable accounting period in any business, the taxable profits of the business shall be deemed to be reduced and relief shall be granted in accordance with the following provisions :—

(*a*) the aggregate amount of the taxable profits for the previous chargeable accounting periods shall be deemed to be reduced by the amount of the deficiency of profits and the amount of business profits tax payable in respect thereof shall be deemed to be reduced accordingly, and the relief necessary to give effect to the reduction shall be given by repayment or otherwise ;

(*b*) where the amount of the deficiency of profits exceeds the aggregate amount of the taxable profits for the previous chargeable accounting periods or where there is no previous chargeable accounting period, the balance of the deficiency of profits or the whole of the deficiency, as the case may be, shall be applied in reducing any taxable profits for the next subsequent chargeable accounting period, and if and so far as it exceeds the amount of those profits, any taxable profits for the next subsequent chargeable accounting period and so on.

7. **Change in persons carrying on business.**—As from the date of any change in the persons carrying on a business, the business shall be deemed for all the purposes of this Act to have been discontinued and a new business to have been commenced :

Provided that where a change takes place in the persons carrying on a business and where except for such change relief would be allowable under section 6, the Central Board of Revenue may, if it thinks fit, allow such relief under that section as it considers just, having regard to the extent to which the persons directly or indirectly interested in the business before the change remain interested therein after the change.

8. **Interconnected companies.**—(1) Where any interest, annuity, or other annual payment, or any royalty or rent, is payable by one company to another company, and one of those companies is a subsidiary of the other, or both are

[18] Inserted by the Income-tax and Business Profits Tax (Amendment) Act, 1947 (44 of 1947), with effect from the date on which the Business Profits Tax Act, 1947, came into force.

[19] Substituted for "British India" by the Adaptation of Laws Order, 1950.

[20] Substituted for "a Part B State" by the Adaptation of Laws (No. 3) Order, 1956, with effect from the 1st November, 1956.

subsidiaries of a third company, and the recipient company is resident outside [21][the taxable territories], no allowance shall be made in respect of such payment in computing the profits or losses of the paying company.

(2) Where—

(*a*) a company (hereinafter referred to as "the principal") is resident in [21][the taxable territories] and is not a subsidiary of any other company resident in [21][the taxable territories], and

(*b*) during the whole or any part of any chargeable accounting period of the principal, another company resident or carrying on business within [21][the taxable territories] (hereinafter referred to as "the subsidiary") is a subsidiary of the principal,

the capital or profits or losses of the subsidiary for such chargeable accounting period or part thereof shall be treated for the purposes of this Act as if they were the capital of, or as the case may be, profits or losses arising from the business of, the principal:

Provided that the profits of the subsidiary so treated shall not be exempted from business profits tax in the hands of the principal by reason of any exemption applicable to the principal under the proviso to section 4.

(3) Where the chargeable accounting periods of the principal and subsidiary are not co-terminous, such division and apportionment of the profits or losses of the subsidiary for any chargeable accounting period shall be made as will allocate the due proportion thereof to the relative chargeable accounting period or periods of the principal; and such division and apportionment shall be by reference to the proportion that the number of days of the chargeable accounting period of the subsidiary falling within the relative chargeable accounting period or periods of the principal bears to the total number of days in the chargeable accounting period of the subsidiary.

(4) For the purposes of this section a company shall be deemed to be a subsidiary of another company if and so long as not less than four-fifths of its ordinary share capital is beneficially owned by that other company, whether directly or through another company or other companies, or partly directly and partly through another company or other companies.

(5) The business profits tax payable by virtue of this section by the principal shall, for the purposes of section 10, be allocated by the Income-tax Officer to the respective companies concerned in such proportion as in his opinion is just:

Provided that the principal shall have the same rights of appeal against an order of allocation made under this sub-section as it has under this Act against the amount of its business profits tax assessment.

9. **Aggregation of profits in certain cases.**—Where an individual [22][or a Hindu undivided family] is entitled to profits arising from more than one business, of which at least one is carried on by a firm in which he [22][or it] is a partner, [22][or by a company which for the purposes of this section is deemed to be a firm in which he or it is interested,] the Income-tax Officer may, with the prior sanction of the Inspecting Assistant Commissioner of Income-tax, aggregate the shares of such individual [22][or Hindu undivided family] in the profits or losses of all of such

[21] Substituted for "British India" by the Adaptation of Laws Order, 1950.

[22] Inserted by the Income-tax and Business Profits Tax (Amendment) Act, 1948 (48 of 1948).

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Provided that if the accounting periods of such businesses are not co-terminous, the Income-tax Officer shall determine in respect of such individual [23][or Hindu undivided family] his [23][or its] chargeable accounting period and shall make such divisions, apportionments and aggregation of the shares of such individual [23][or Hindu undivided family] in the profits or losses of the several businesses as may be necessary to determine for such chargeable accounting period the total profits and gains of such individual [23][or Hindu undivided family] therefrom:

Provided further that for the purposes of this section, a company, which is neither one in which the public are substantially interested, as defined in the *Explanation* to sub-section (1) of section 23A of the Indian Income-tax Act, 1922, nor a subsidiary company as defined in sub-section (4) of section 8 of this Act, shall be deemed to be a firm in which the persons having an interest in the company are partners, or, in the case of a sole shareholder, a business carried on by that sole shareholder, and the profits of such company shall be computed accordingly:

Provided further that any profits or losses so aggregated for assessment upon an individual [23][or a Hindu undivided family] shall be excluded from the profits or losses of the respective businesses for the purposes of this Act; and no assessment under this Act shall be made in respect of any such business save in the names of the other partners therein, [23][and such individual or Hindu undivided family shall not be treated as a working partner in relation to such business for the purpose of sub-clause (*b*) of clause (1) of section 2].

10. Allowance of business profits tax in computing income for income-tax purposes.—The amount of the business profits tax payable by any person for any chargeable accounting period shall, in computing total income for the purposes of the relevant income-tax or super-tax assessment, be allowed as a deduction:

Provided that where, under the provisions of this Act relating to deficiencies of profits, relief is given by way of repayment from business profits tax chargeable for any chargeable accounting period previous to that in which the deficiency occurs, the amount of the deduction allowed shall not be altered, but the amount repayable shall be taken into account in computing the profits and gains of the business for the purposes of income-tax as if it were a profit of the business accruing in the previous year (as determined for that business for the purposes of the Indian Income-tax Act, 1922) in which the deficiency of profits occurs.

11. Issue of notice for assessment.—(1) The Income-tax Officer may, for the purposes of this Act, require any person whom he believes to be engaged in any business to which this Act applies, or to have been so engaged during any chargeable accounting period, or to be otherwise liable to pay business profits tax, to furnish within such period, not being less than forty-five days from the date of the service of the notice, as may be specified in the notice, a return in the prescribed form and verified in the prescribed manner setting forth (along with such other particulars as may be provided for in the notice) with respect to any chargeable accounting period specified in the notice the profits [24][and taxable profits] of the business or the amount of deficiency, if any, available for relief under section 6:

[23] Inserted by the Income-tax and Business Profits Tax (Amendment) Act, 1948 (48 of 1948).

[24] Inserted by the Income-tax and Business Profits Tax (Amendment) Act, 1947 (44 of 1947), with effect from the date on which the Business Profits Tax Act, 1947, came into force.

Provided that the Income-tax Officer may, in his discretion, extend the date for the delivery of the return. Div. 5 B

(2) The Income-tax Officer may serve on any person, upon whom a notice has been served under sub-section (1), a notice requiring him on a date to be therein specified to produce, or cause to be produced, such accounts or documents as the Income-tax Officer may require, and may from time to time serve further notices in like manner requiring the production of such further accounts or documents or other evidence as he may require.

12. **Assessments.**—(1) The Income-tax Officer shall, by an order in writing after considering such evidence, if any, as he has required under section 11, assess to the best of his judgment the profits liable to business profits tax and the amount of business profits tax payable on the basis of such assessment, or if there is a deficiency of profits, the amount of that deficiency and the amount of business profits tax, if any repayable, and shall furnish a copy of such order to the person on whom the assessment has been made.

(2) Business profits tax payable in respect of any chargeable accounting period shall be payable by the person carrying on, or treated as carrying on, the business in that period.

(3) Where two or more persons were carrying on the business jointly in the chargeable accounting period, the assessment shall be made upon them jointly and, in the case of a partnership, may be made in the partnership name.

(4) Where by virtue of the foregoing provisions an assessment could, but for his death, have been made on any person either solely or jointly with any other person or persons, the assessment may be made on his legal representative either solely or jointly with that other person or persons, as the case may be.

13. **Power to make provisional assessments.**—(1) The Income-tax Officer, before proceeding to make an assessment (in this section referred to as the regular assessment) under section 12, may, at any time after the expiry of the period specified in the notice issued under sub-section (1) of section 11 as that within which the return therein referred to is to be furnished, and whether the return has or has not been furnished, proceed to make in summary manner a provisional assessment of the taxable profits and the amount of business profits tax payable thereon.

(2) Before making such provisional assessment the Income-tax Officer shall give notice in the prescribed form to the person on whom assessment is to be made of his intention to do so, and shall with the notice forward a statement of the amount of the proposed assessment, and the said person shall be entitled to deliver to the Income-tax Officer at any time within fourteen days of receipt of the said notice a statement of his objections, if any, to the amount of the proposed assessment.

(3) On expiry of one month from the date of service of the notice referred to in sub-section (2), or earlier if the assessee agrees to the proposed assessment, the Income-tax Officer may, after taking into account the objections, if any, made under sub-section (2), make a provisional assessment, and shall furnish a copy of the order of assessment to the assessee;

Provided that assent to the amount of the assessment, or failure to make objection to it, shall in no way prejudice the assessee in relation to the regular assessment.

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(4) In making any such provisional assessment the Income-tax Officer shall make allowance for any deficiencies of profits for previous chargeable accounting periods which are under the provisions of section 6 to be set off against the taxable profits of the chargeable accounting period in respect of which the assessment is being made:

Provided that, where such deficiencies of profits have not been determined under sub-section (1) of section 12, the Income-tax Officer shall estimate the amount thereof to the best of his judgment.

(5) There shall be no right of appeal against a provisional assessment made under this section, and it shall, until a regular assessment is made in due course under section 12, determine the amount of business profits tax due from the assessee.

(6) If, when a regular assessment is made in due course under section 12, the amount of business profits tax payable thereunder is found to exceed that determined as payable by the provisional assessment, it shall be reduced by the amount determined as payable by the provisional assessment.

(7) If, when a regular assessment is made in due course under section 12, the amount of business profits tax payable thereunder is found to be less than that determined as payable by the provisional assessment, any excess of tax paid as a result of the provisional assessment shall be refunded to the assessee, together with interest at two *per cent per annum* calculated from the date of payment of such excess tax to the date of the order of refund, both days inclusive.

14. Profits escaping assessment.—If, in consequence of definite information which has come into his possession, the Income-tax Officer discovers that profits of any chargeable accounting period chargeable to business profits tax have escaped assessment, or have been under-assessed, or have been the subject of excessive relief, he may at any time within four years of the end of the chargeable accounting period in question serve on the person liable to such tax a notice containing all or any of the requirements which may be included in a notice under section 11, and may proceed to assess or reassess the amount of such profits liable to business profits tax, and the provisions of this Act shall, so far as may be, apply as if the notice were a notice issued under that section.

15. Penalties.—If the Income-tax Officer, the Appellate Assistant Commissioner of Income-tax or the Commissioner of Income-tax, in the course of any proceedings under this Act, is satisfied that any person has, without reasonable cause, failed to furnish the return required under sub-section (1) of section 11, or to produce or cause to be produced the accounts or documents or other evidence required by the Income-tax Officer under sub-section (2) of that section, or has concealed particulars of the profits of the business, or has deliberately furnished inaccurate particulars of such profits, he may direct that such person shall pay by way of penalty, in addition to the amount of any business profits tax payable, a sum not exceeding—

(*a*) where the person has failed to furnish the return required under sub-section (1) of section 11, the amount of the business profits tax payable;

(*b*) in any other case, the amount of business profits tax which would have been avoided if the return made had been accepted as correct:

Provided that the Income-tax Officer shall not impose any penalty under this section without the previous approval of the Inspecting Assistant Commissioner of Income-tax.

16. Appeals to Appellate Assistant Commissioner of Income-tax.—(1) Any person objecting to the amount of business profits tax for which he is liable as assessed by the Income-tax Officer or denying his liability to be assessed under this Act, or objecting to any penalty imposed by the Income-tax Officer, or to the amount of any deficiency of profits as assessed by the Income-tax Officer, or to the amount allowed by the Income-tax Officer by way of relief under any provision of this Act or to any refusal by the Income-tax Officer to grant relief, may appeal to the Appellate Assistant Commissioner of Income-tax. Div. 5 B

(2) An appeal shall ordinarily be presented within forty-five days of receipt of the notice of demand relating to the assessment or penalty objected to, or in the case of an appeal against the assessment of a deficiency of profits, within thirty days of the receipt of the copy of the order determining the deficiency, or in the case of an appeal against the amount of a relief granted or a refusal to grant relief, within forty-five days of the receipt of the intimation of the order granting or refusing to grant the relief, but the Appellate Assistant Commissioner of Income-tax may admit an appeal after the expiration of that period if he is satisfied that the appellant had sufficient cause for not presenting it within that period.

(3) An appeal shall be in the prescribed form and shall be verified in the prescribed manner.

(4) The Appellate Assistant Commissioner of Income-tax shall hear and determine the appeal and, subject to the provisions of this Act, shall pass such orders as he thinks fit, and such orders may include an order enhancing the assessment or a penalty:

Provided that an order enhancing an assessment or penalty shall not be made unless the person affected thereby has been given a reasonable opportunity of showing cause against such enhancement.

(5) The procedure to be adopted in the hearing and determination of appeals shall be in accordance with the rules made by the Central Board of Revenue in relation to income-tax.

17. Appeal to Appellate Tribunal.—Any Income-tax Officer or any person in respect of whose business an order under section 12 has been passed and who objects to an order passed by an Appellate Assistant Commissioner of Income-tax under section 15 or section 16 may, within the prescribed time and in the prescribed manner, appeal against such order to the Appellate Tribunal constituted under the Indian Income-tax Act, 1922, and that Tribunal shall have all such powers in disposing of the appeal as it has in respect of appeals preferred to it under the said Act.

18. Rectification of mistakes.—The Commissioner of Income-tax may, at any time within four years from the date of any order passed by any Appellate Assistant Commissioner of Income-tax or Income-tax Officer under this Act, rectify any mistake in any evidence recorded during assessment or appellate proceedings, or any mistake apparent from the record and shall within the like period rectify any mistake apparent from the record which has been brought to his notice by a person to whose business this Act applies:

Provided that no such rectification shall be made having the effect of enhancing the liability of any person unless that person has been given a reasonable opportunity of being heard.

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[25][18A. **Agreement for avoidance of double taxation in India and Pakistan.**—The Central Government may enter into an agreement with Pakistan for the avoidance of double taxation of profits under this Act and under the corresponding law in force in Pakistan, and may, by notification in the Official Gazette, make such provision as may be necessary for implementing the agreement.]

19. **Application of provisions of Act XI of 1922.**—The sections of the Indian Income-tax Act, 1922, as applied to excess profits tax by virtue of [1][sections 21 and 21A] of the Excess Profits Tax Act, 1940, shall, in so far as they are not repugnant to the provisions of this Act, [2][and with such modifications, if any, as may be prescribed,] apply to business profits tax as they apply to excess profits tax.

20. **Income-tax papers to be available for the purposes of this Act.**—(1) Notwithstanding anything contained in the Indian Income-tax Act, 1922, all information contained in any statement or return made or furnished under the provisions of that Act or obtained or collected for the purposes of that Act may be used for the purposes of this Act.

(2) All information contained in any statement or return made or furnished under the provisions of this Act or obtained or collected for the purposes of this Act may be used for the purposes of the Indian Income-tax Act, 1922.

21. **Failure to deliver returns or statements.**—If any person fails, without reasonable cause or excuse, to furnish in due time any return or statement, or to produce, or cause to be produced, any accounts or documents required to be produced under section 11, he shall be punishable with fine which may extend to five hundred rupees, and with a further fine which may extend to fifty rupees for every day during which the default continues.

22. **False statements.**—If a person makes in any return required under section 11 any statement which is false, and which he either knows or believes to be false or does not believe to be true, he shall be punishable with simple imprisonment which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

23. **Institution of proceedings and composition of offences.**—(1) A person shall not be proceeded against for an offence under section 21 or section 22 except at the instance of the Inspecting Assistant Commissioner of Income-tax.

(2) No prosecution for an offence punishable under section 21 or section 22 or under the Indian Penal Code shall be instituted in respect of the same facts as those in respect of which a penalty has been imposed under this Act.

(3) The Inspecting Assistant Commissioner of Income-tax may, either before or after the institution of proceedings, compound any offence punishable under section 21 or section 22.

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[25] Inserted by the India (Adaptation of Income-tax, Profits Tax and Revenue Recovery Acts) Order, 1947.

[1] Substituted for "section 21" by the India (Adaptation of Income-tax, Profits Tax and Revenue Recovery Acts) Order, 1947.

[2] Inserted by the Income-tax and Business Profits Tax (Amendment) Act, 1947 (44 of 1947), with effect from the date on which the Business Profits Tax Act, 1947, came into force.

[3][23A. **Power to make exemption, etc., in relation to [4][merged territories.]**—If the Central Government considers it necessary or expedient so to do, for avoiding any hardship or anomaly, or removing any difficulty, that may arise as a result of the extension of this Act to the [4][merged territories,] the Central Government may, by general or special order, make an exemption, reduction in rate or other modification in respect of business profits tax in favour of any class of profits, or in regard to the whole or any part of the profits of any person or class of persons.] Div. 5 B

24. Power to make rules.—(1) The Central Board of Revenue may, subject to the control of the Central Government, make rules for carrying out the purposes of this Act.

(2) Without prejudice to the generality of the foregoing power, such rules may—

(*a*) prescribe the procedure to be followed on appeals, applications for rectification of mistakes, and applications for refunds ;

(*b*) provide for any matter which by, or under, this Act is to be prescribed.

(3) The power to make rules conferred by this section shall be exercised in like manner as the power to make rules under section 59 of the Indian Income-tax Act, 1922.

SCHEDULE I

[*See* SECTION 2(16)]

Rules for the computation of profits for purposes of Business Profits Tax

1. The profits of a business during any chargeable accounting period shall be separately computed, and shall, subject to the provisions of this Schedule, be computed in accordance with the provisions of section 10 of the Indian Income-tax Act, 1922 :

Provided that any sums other than any interest paid by a firm to a partner of the firm excluded under the proviso to clause (*iii*) of sub-section (2) or clause (*a*) of sub-section (4) of that section from the allowances made in computing the profits of the business for the purposes of income-tax shall, if paid, be included in those allowances when computing the profits of the business for the purposes of business profits tax :

Provided further—

(*a*) that any sums received or credited in a chargeable accounting period which by virtue of rule 9 of Schedule I to the Excess Profits Tax Act, 1940, have been treated as business receipts for the purpose of assessment to excess profits tax, and

(*b*) any expenditure or loss incurred in any chargeable accounting period, allowance in respect of which has been made for excess profits tax purposes,

shall be disregarded in computing the profits or losses of the chargeable accounting period :

Provided further that where a chargeable accounting period is not an accounting period, the profits or losses of the business during the accounting periods wholly or partly included within the chargeable accounting period shall be so computed as aforesaid, and such division and apportionment to specific periods of those profits or losses and such aggregation of those profits and losses, or any apportioned part thereof, shall be made as appears necessary to arrive at the profit during the chargeable accounting period ; and any such apportionment shall be made in proportion to the number of days in the respective periods.

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[3] Inserted by the Taxation Laws (Extension to Merged States and Amendment) Act, 1949 (67 of 1949).

[4] Substituted for "merged States" by the Adaptation of Laws Order, 1950.

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2. (1) The principle of adding the allowance for depreciation for any one period to the allowance for depreciation for any subsequent period and deeming it to be part of the allowance for such subsequent period shall not be followed.

(2) Nothing in this Act shall be construed as permitting the application, in computing profits for the purposes of business profits tax, of the provisions of sub-section (2) of section 24 of the Indian Income-tax Act, 1922.

3. Income received from investments or other property shall be included in the profits only as provided in this rule, that is to say,—

(*a*) in the case of the business of a building society, or a banking business, insurance business or business consisting wholly or mainly in the dealing in or holding of investments or other property, the profits shall include all income received from investments or other property ; or

(*b*) in the case of a business part of which consists in banking, insurance or dealing in investments or other property, not being a business to which clause (*a*) applies, the profits shall include all income received from investments or other property held for the purposes of that part of that business :

Provided that—

(*i*) income received directly or indirectly by way of dividend or distribution of profits from a body corporate carrying on business as defined in this Act, and

(*ii*) income to which the persons carrying on the business are not beneficially entitled, shall in no case be included.

4. (1) In the case of a business carried on in any accounting period which constitutes or includes a chargeable accounting period, by a company, the directors whereof have throughout that accounting period a controlling interest therein, no deduction shall be made in respect of directors' remuneration in computing the profits for that accounting period.

(2) Where, in the case of a business carried on by a company in any accounting period which constitutes or includes a chargeable accounting period, the directors of the company have during any part of that accounting period a controlling interest therein, and the case is not one to which sub-rule (1) applies, the profits of the accounting period shall be computed as if the directors of the company had no controlling interest therein, and to the part thereof appropriate to the chargeable accounting period ascertained in accordance with the third proviso to rule 1 shall be added the directors' remuneration for that part of the chargeable accounting period during which the directors of the company had a controlling interest therein.

(3) In this rule the expression "directors' remuneration" does not include—

(*a*) the remuneration of any director who is required to devote substantially the whole of his time to the service of the company in a managerial or technical capacity and is not the beneficial owner of, or able, either directly or through the medium of other companies or by any other indirect means, to control, more than five per cent of the ordinary share capital of the company, or

(*b*) the remuneration of any managing agent where such remuneration is included in the profits of the managing agent's business for the purposes of the business profits tax.

5. (1) In computing the profits of any chargeable accounting period no deduction shall be allowed in respect of expenses in excess of the amount which the Income-tax Officer considers reasonable and necessary, having regard to the requirements of the business, and, in the case of directors' fees or other payment for services, to the actual services rendered by the person concerned :

Provided that no disallowance under this rule shall be made by the Income-tax Officer unless he has obtained the prior authority of the Inspecting Assistant Commissioner of Income-tax.

(2) Any person who is dissatisfied with the decision of the Income-tax Officer under this rule may appeal in the prescribed time and manner to the Appellate Tribunal referred to in section 17.

SCHEDULE II

Div. 5 B

[*See* SECTION 2(1)]

Rules for computing the capital of a company for purposes of Business Profits Tax

1. For the purposes of ascertaining the abatement under this Act in respect of any chargeable accounting period, the capital of a company shall be computed in accordance with the following rules.

2. [5][(1) Where the company is one to which rule 3 of Schedule I applies, its capital shall be the sum of the amounts of its paid-up share capital and of its reserves in so far as they have not been allowed in computing the profits of the company for the purposes of the Indian Income-tax Act, 1922 (XI of 1922), diminished by the cost to it of its investments or other property the income from which is not includible in the profits, so far as that cost exceeds any debt for money borrowed by it.]

[5][(2)] In all other cases, the capital shall be the sum ascertained in accordance with the said sub-rule, diminished by the cost to the company of its investments so far as that cost exceeds any debt for money borrowed by it.

[6][*Explanation.*—A reserve or paid-up share capital brought into existence by creating or increasing (by re-valuation or otherwise) any book asset is not capital for the purposes of ascertaining the abatement under this Act in respect of any chargeable accounting period.]

[7][2A. Notwithstanding anything contained in rule 2, where only a part of the profits of a company is chargeable under the provisions of this Act, its capital shall be the sum ascertained in accordance with the said rule diminished by an amount which bears to that sum the same proportion as the amount of its profits not so chargeable bears to its total profits.]

3. So much of the premium realised by a company from the issue of any of its shares as is retained in the business shall be regarded as forming part of its paid-up capital for the purposes of rule 2.

4. Any deposits with the Central Government under section 10 of the Indian Finance Act, 1942, or section 2 of the Excess Profits Tax Ordinance, 1943, shall not be regarded as investment or other property for the purposes of this Schedule.

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[5] This sub-rule was substituted for sub-rules (1) and (2), and sub-rule (3) was renumbered (2), by the Income-tax and Business Profits Tax (Amendment) Act, 1948 (48 of 1948).

[6] Added by the Taxation Laws (Extension to Merged States and Amendment) Act, 1949 (67 of 1949), with effect from the date on which the Business Profits Tax Act, 1947, came into force.

[7] Inserted by the Income-tax and Business Profits Tax (Amendment) Act, 1947 (44 of 1947), with effect from the date on which the Business Profits Tax Act, 1947, came into force.

THE BUSINESS PROFITS TAX RULES, 1947*

In exercise of the powers conferred by section 24 of the Business Profits Tax Act, 1947 (XXI of 1947), the Central Board of Revenue makes the following rules, namely :—

1. **Short title.**—These rules may be called the Business Profits Tax Rules, 1947.

2. **Definitions.**—In these rules, unless there is anything repugnant in the subject or context,—

(*i*) "the Act" means the Business Profits Tax Act, 1947 (XXI of 1947) ;

(*ii*) "applied section" means a section of the Indian Income-tax Act, 1922 (XI of 1922), as applied by section 19 of the Act and rule 4A ;

(*iii*) in the applied sections, "the Act" means the Business Profits Tax Act, 1947 (XXI of 1947) ;

(*iv*) "form" means a form as set out in the Schedule to these rules.

3. These rules shall remain in force for so long as the Act remains in force.

4. **Adaptation of Indian Income-tax Rules, 1922.**—Rules 8, 23, 24, 33, 34, 44, 45 and 46 of the Indian Income-tax Rules, 1922, shall apply subject to the modification that all references therein to "income-tax" shall be construed as references to "Business Profits Tax."

4A. **Adaptation of Indian Income-tax Act, 1922.**—The provisions of, sections 4A, 4B, 10, 13, 24B, 29, 36 to 44C, 45 to 48, 49E, 49F, 50, 54, 61 to 63 and 65 to 67A of the Indian Income-tax Act, 1922 (XI of 1922), shall apply with the following modifications, namely :—

(*i*) *General modifications.*—All references to "this Act," except those in the proviso to clause (*iii*) of sub-section (2), clause (*b*) of sub-section (5) and the first proviso thereto of section 10, the first proviso to sub-section (1) of section 42, section 44A, and in sub-section (1) of section 54 where they last occur, shall be construed as references to "the Act."

(*ii*) *Modification of section* 10.—In section 10—

(*a*) clauses (*b*) and (*c*) of the proviso to clause (*vi*) and clause (*f*) of the second proviso to clause (*xiv*) of sub-section (2) shall be omitted ;

(*b*) for sub-section (7) the following sub-section shall be substituted, namely :—

"(7) Notwithstanding anything to the contrary in this section or in the Act, the profits of any business of insurance, other than life insurance, shall be computed in accordance with the rules contained in the Schedule to the Indian Income-tax Act, 1922, in so far as they are applicable to such business."

(*iii*) *Modification of section* 13.—In section 13, the word and figures "and 12" shall be omitted.

(*iv*) *Modification of section* 24*B*.—In section 24B—

(*a*) in sub-section (2)—

(1) the words, brackets and figures "before the publication of the notice referred to in sub-section (1) of section 22 or" shall be omitted ;

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* Notification No. 4, published in the *Gazette of India*, Part I—Sec. 1, dated the 1st November, 1947.

(2) for the words, brackets and figures "sub-section (2) of section 22 or section 34" and "sub-section (2) of section 22 or under section 34," the words, brackets and figures "sub-section (1) of section 11 or section 14 of the Act" shall be substituted ; and

(3) for the words "total income" the words "taxable profits" shall be substituted ;

(*b*) in sub-section (3)—

(1) for the word and figures "section 22" the words, brackets and figures "sub-section (1) of section 11 of the Act," shall be substituted ;

(2) for the words and figures "sections 22 and 23" the words, brackets and figures "sub-section (2) of section 11 of the Act" shall be substituted ; and

(3) for the words "total income" the words "taxable profits" shall be substituted.

(*v*) *Modification of section* 29.—In section 29, for the words "tax, penalty or interest," wherever they occur, the words "tax or penalty" shall be substituted.

(*vi*) *Modification of section* 37.—In section 37, for the words "this Chapter," wherever they occur, the words, figures and brackets "sections 7 to 18 (inclusive) of the Act" shall be substituted.

(*vii*) *Modification of section* 40.—For section 40 the following section shall be substituted, namely :—

"40. In the case of any agent of any person residing out of the taxable territories, being entitled to receive on behalf of such person any profits chargeable under the Act, the tax shall be levied upon and recoverable from such agent in like manner and to the same amount as it would be leviable upon and recoverable from such person if resident in the taxable territories and in direct receipt of such profits, and all the provisions of the said Act shall apply accordingly :

Provided that the tax may be levied upon and recovered from such non-resident person direct."

(*viii*) *Modification of section* 41. —The provisoes to sub-section (1) of section 41 shall be omitted.

(*ix*) *Modification of section* 42.—In section 42—

(*a*) in sub-section (1) for the word "income-tax," wherever it occurs, the words "Business Profits Tax" shall be substituted ;

(*b*) in the first proviso to that sub-section, the words and figures "the income-tax so chargeable may be recovered by deduction under any of the provisions of section 18 and that" shall be omitted ;

(*c*) in sub-section (2) for the word "income-tax," wherever it occurs (except in the phrase "Income-tax Officer"), the words "Business Profits Tax" shall be substituted.

(*x*) *Modification of section* 43.—The Explanation to section 43 shall be omitted.

(*xi*) *Modification of section* 44.—For section 44 the following section shall be substituted, namely :—

"44. Where any business carried on by a firm or association of persons has been discontinued, every person who was at the time of such discontinuance a partner of such firm or a member of such association shall, in respect of the

Div. 5 B profits of the firm or association, be jointly and severally liable to assessment under section 12 of the Act, and for the amount of tax payable, and all the provisions of the said Act shall, so far as may be, apply to any such assessment."

(*xii*) *Modification of section* 44*A*.—In section 44A, for the words "this Chapter" the words, figures and letters "the applied sections 44B and 44C" shall be substituted.

(*xiii*) *Modification of section* 44*B*.—In section 44B—

(*a*) in sub-section (1), for the words "this Chapter" the words, figures and letter "the applied section 44A" shall be substituted ;

(*b*) in sub-section (3), the words "at the rate for the time being applicable to the total income of a company" shall be omitted.

(*xiv*) *Modification of section* 44*C*.—In section 44C—

(*a*) for the words "this Chapter," wherever they occur, the words, figures and letters "the applied sections 44A and 44B" shall be substituted ;

(*b*) for the words "of his total income in the previous year" the words "of his actual taxable profits in the chargeable accounting period" shall be substituted ;

(*c*) the word "other" shall be omitted.

(*xv*) *Modification of section* 45.—In section 45—

(*a*) the words, brackets, figures and letter "under sub-section (3) of section 23A or" shall be omitted ;

(*b*) for the words and figures "section 31 or section 33" the words, brackets and figures "sub-section 4 of section 16 or section 17 or section 18 of the Act" shall be substituted ;

(*c*) for the words and figures "under section 30," the words and figures "under section 16 of the Act" shall be substituted ;

(*d*) in the proviso, for the words "which is due in respect of that amount of his income which," the words "which relates to taxable profits arising from such income as" shall be substituted.

(*xvi*) *Modification of section* 46.—In section 46—

(*a*) sub-section (5) shall be omitted ;

(*b*) in sub-sections (1) and (6), for the word "income-tax," wherever it occurs, the words "Business Profits Tax" shall be substituted.

(*xvii*) *Modification of section* 47.—In section 47—

(*a*) the words, brackets, figures and letters "sub-section (2) of section 25, section 28, sub-section (6) of section 44E, sub-section (5) of section 44F or" shall be omitted ;

(*b*) after the figures "46," the words and figures "or under the provisions of section 15 of the Act," shall be inserted ;

(*c*) for the words "this Chapter" the words and figures "the applied sections 45 and 46" shall be substituted ;

(*d*) the words, brackets, figures and letter "and any interest payable under the provisions of sub-section (4), (6) or (8) of section 18A" shall be omitted.

(*xviii*) *Modification of section* 48.—In section 48—

(*a*) for sub-section (1), the following sub-section shall be substituted, namely :—

"(1) If any person, to whose business the Act applies, satisfies the Income-tax Officer that the amount of tax paid by him for any chargeable accounting period exceeds the amount with which he is properly chargeable under the said Act for that period, he shall be entitled to a refund of any such excess";

(*b*) sub-section (3) shall be omitted ;

(*c*) in sub-section (4), the words, brackets and figures "or to entitle any person to claim a refund of tax payable before the commencement of the Indian Income-tax (Amendment) Act, 1939 (VII of 1939), which he would not be entitled to claim but for the passing of that Act" shall be omitted.

(*xix*) *Modification of section* 49*F*.—In section 49F, for the word and figures "or 49," the following shall be substituted, namely :—

"or under section 6 of the Act,".

(*xx*) *Modification of section* 50.—For section 50 the following section shall be substituted, namely :—

"50. No claim to any refund of tax under the Act shall be allowed unless it is made within four years from the last day of the financial year commencing next after the expiry of the accounting period which constitutes or includes the chargeable accounting period in respect of which the claim to such refund arises."

(*xxi*) *Modification of section* 54.—In section 54—

(*a*) in sub-section (1), for the words "this Chapter" the words and figures "sections 21, 22 and 23 of the Act" shall be substituted ;

(*b*) in sub-section (3), clauses (*e*), (*i*) and (*m*) shall be omitted ; and in clauses (*f*) and (*gg*) for the words "income-tax" the words "Business Profits Tax" shall be substituted ;

(*c*) sub-section (4) shall be omitted.

(*xxii*) *Modification of section* 61.—In sub-section (3) of section 61, for the words "income-tax proceedings" the words "Business Profits Tax proceedings" shall be substituted.

(*xxiii*) *Modification of section* 66.—In section 66—

(*a*) in sub-section (1), for the words, brackets and figures "sub-section (4) of section 33" the words, figures and brackets "section 17 of, or sub-rule (2) of rule 5 of Schedule I to, the Act read with sub-section (4) of section 33 of the Indian Income-tax Act, 1922" shall be substituted ;

(*b*) in sub-section (7), for the word "income-tax" the words "Business Profits Tax" shall be substituted.

5. Form of Notice of Demand under applied section 29.—The notice of demand or of determination of a deficiency of profits under applied section 29 shall be in Form B. P. 4.

6. Form of Notice in default of payment.—The notice in default of payment of business profits tax shall be in Form B. P. 6.

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7. Forms for Notice under section 13.—Notice under sub-section (2) of section 13 of the Act shall be in Form B. P. 3-1 and the Order of Assessment and Notice of Demand in respect of provisional assessment made under sub-section (3) of the said section shall be in Form B. P. 4-1.

8. Form of Return under section 11(1).—The return required under sub-section (1) of section 11 of the Act shall be in Form B. P. 1.

9. Forms of appeal under section 16.—An appeal under section 16 of the Act shall be—

(*a*) in Form B. P. 8, if against the amount of an assessment made or of a deficiency of profits under sub-section (1) of section 12 of the Act;

(*b*) in Form B. P. 9, if against an order imposing a penalty under section 15 of the Act or under sub-section (1) of applied section 46;

(*c*) in Form B. P. 10, if in respect of an alleged insufficient relief or refund or a refusal to grant relief or refund by the Income-tax Officer under section 6 of the Act;

(*d*) in Form B. P. 11, if against an order under sub-section (5) of section 8 of the Act allocating between a principal company and its subsidiaries the business profits tax payable by the principal company.

10. Form of application for refund under section 6.—An application for refund of business profits tax under section 6 of the Act, in respect of a deficiency of profits, shall be in Form B. P. 12.

11. Form of appeal to the Appellate Tribunal.—An Appeal under section 17 of the Act or under sub-rule (2) of rule 5 of Schedule I to the Act shall be in Form B. P. 17(T).

12. Time-limit for appeals to Appellate Tribunal.—An appeal to the Appellate Tribunal—

(*a*) under section 17 of the Act against an order of the Appellate Assistant Commissioner of Income-tax under section 15 or 16 of the Act; or

(*b*) against any disallowance made by the Income-tax Officer under rule 5 of Schedule I to the Act; or

(*c*) against an allocation of business profits tax under sub-section 5 of section 8 of the Act for the purposes of section 10 of the Act;

shall be made at any time before the expiry of sixty days from the date of receipt of the order in question.

13. Procedure on appeal to the Appellate Tribunal.—The procedure to be followed on an appeal to the Appellate Tribunal under the Act shall be the same, as nearly as may be, as that prescribed in respect of appeals to that Tribunal under the Indian Income-tax Act, 1922 (XI of 1922).

14. Commissioner to be represented at hearing of appeal or application.—(1) At the hearing of any appeal or application under the Act by the Appellate Tribunal or an Appellate Assistant Commissioner, the Commissioner shall have the right to be represented by the Income-tax Officer or such other person as may be appointed by the Commissioner in that behalf.

(2) Notice of the date appointed for the hearing of any appeal or application under the Act shall also be given to the Income-tax Officer concerned.

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C

THE EXCESS PROFITS TAX ACT, 1940

(ACT NO. XV OF 1940)

(*Received the assent of the Governor-General on the 6th April*, 1940.)

An act to impose a tax on excess profits arising out of certain businesses.

Whereas it is expedient to impose a tax on excess profits arising out of certain businesses in the conditions prevailing during the present hostilities;

It is hereby enacted as follows :—

1. Short title, extent and commencement.—(1) This Act may be called the Excess Profits Tax Act, 1940.

(2) It extends to [1][the whole of India except [1a][the territories which, immediately before the 1st November, 1956, were comprised in Part B States]].

(3) It shall come into force on such [2]date as the Central Government may, by notification in the official Gazette, appoint.

2. Definitions.—In this Act, unless there is anything repugnant in the subject or context,—

(1) "accounting period" in relation to any business means—

(*a*) where the accounts of the business are made up for successive periods of twelve months, each of such periods;

(*b*) in any other case, such period as the Excess Profits Tax Officer may determine :

Provided that in determining any accounting period under sub-clause (*b*) the Excess Profits Tax Officer shall have regard to the period, if any, which is, or has been, determined as the previous year for that business for the purposes of the Indian Income-tax Act, 1922;

(2) "Appellate Assistant Commissioner" means a person appointed to be an Appellate Assistant Commissioner of Excess Profits Tax under section 3;

(3) "average amount of capital" means the average amount of capital employed in any business as computed in accordance with the Second Schedule;

(4) "Board of Referees" means a Board of Referees appointed under section 3;

(4A) [3]* * * * *

(5) "business" includes any trade, commerce or manufacture or any adventure in the nature of trade, commerce or manufacture or any profession or vocation, but does not include a profession carried on by an individual or by individuals in partnership if the profits of the profession depend

[1] Substituted for "the whole of British India" by the Adaptation of Laws Order, 1950.

[1a] Substituted for "Part B States" by the Adaptation of Laws (No. 3) Order, 1956, with effect from the 1st November, 1956.

[2] The appointed date was the 13th April, 1940 : *vide* Notification dated the 13th April, 1940.

[3] Inserted by the India (Adaptation of Income-tax, Profits Tax and Revenue Recovery Acts) Order, 1947 (G. G. O. 31), and omitted by the Adaptation of Laws Order, 1950.

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wholly or mainly on his or their personal qualifications unless such profession consists wholly or mainly in the making of contracts on behalf of other persons or the giving to other persons of advice of a commercial nature in connection with the making of contracts:

Provided that where the functions of a company or of a society incorporated by or under any enactment consist wholly or mainly in the holding of investments or other property, the holding of the investments or property shall be deemed for the purpose of this definition to be a business carried on by such company or society:

Provided further that all businesses to which this Act applies carried on by the same person shall be treated as one business for the purposes of this Act;

(6) "chargeable accounting period" means—

(*a*) any accounting period falling wholly within the term beginning on the 1st day of September, 1939, and ending on the 31st day of March, [4][1946], and

(*b*) where any accounting period falls partly within and partly without the said term, such part of that accounting period as falls within the said term;

(7) "Commissioner" means a person appointed to be a Commissioner of Excess Profits Tax under section 3;

(8) "company" means a company as defined in the Indian Companies Act, 1913, or formed in pursuance of an Act of Parliament or of Royal Charter or Letters Patent, or of an Act of the Legislature of a British possession or of a law of a [5][5*a** State], and includes any foreign association whether incorporated or not which the Central Board of Revenue may, by general or special order, declare to be a company for the purposes of this Act;

(9) "deficiency of profits" means—

(*i*) where profits have been made in any chargeable accounting period, the amount by which such profits fall short of the standard profits;

(*ii*) where a loss has been made in any chargeable accounting period, the amount of the loss added to the amount of the standard profits;

(10) "director" includes any person occupying the position of a director by whatever name called and also includes any person who—

(*i*) is a manager of the company or concerned in the management of the business; and

(*ii*) is remunerated out of the funds of the business; and

(*iii*) is the beneficial owner of not less than twenty per cent of the ordinary share capital of the company;

(11) "dividend" has the meaning assigned to the expression in section 2 of the Indian Income-tax Act, 1922;

[4] The original figures "1941" were substituted by the figures "1942," "1943," "1944," "1945" and "1946," respectively, by the Indian Finance Acts of 1941, 1942, 1943, 1944 and 1945.

[5] Substituted for "Indian State" by the Adaptation of Laws Order, 1950.

[5*a*] "Part B" omitted by the Adaptation of Laws (No. 3) Order, 1956, with effect from the 1st November, 1956.

(12) "Excess Profits Tax Officer" means a person appointed to be an Excess Profits Tax Officer under section 3; Div. 5 C

(13) "income" has the meaning assigned to the expression in section 2 of the Indian Income-tax Act, 1922;

(14) "fixed rate" in relation to dividends on share capital, other than ordinary share capital, includes a rate fluctuating in accordance with the maximum rate of income-tax;

(15) "Inspecting Assistant Commissioner" means a person appointed to be an Inspecting Assistant Commissioner of Excess Profits Tax under section 3;

(16) "loss" means a loss computed in the same manner as, for the purposes of this Act, profits are to be computed;

[6][(16A) "ordinary share capital" has the meaning assigned to that expression in sub-section (8) of section 9;]

(17) "person" includes a Hindu undivided family;

(18) "prescribed" means prescribed by rules made under this Act;

(19) "profits" means profits as determined in accordance with the First Schedule;

(20) "standard profits" means standard profits as computed in accordance with the provisions of section 6;

(21) "statutory percentage" means—

(*a*) in relation to a business carried on by a body corporate (other than a company the directors whereof have a controlling interest therein), eight per cent per annum;

[7][(*b*) in relation to a business carried on by a partnership of which one or more of the partners is a body corporate (other than a company the directors whereof have a controlling interest therein), such a rate per cent as is equivalent to—

(*i*) eight per cent per annum on so much of the average amount of the capital employed in the business during the chargeable accounting period as represents the share of any such body corporate, and

(*ii*) ten per cent per annum on the remainder of that amount;

(*c*) in relation to a business to which neither sub-clause (*a*) nor sub-clause (*b*) applies, ten per cent per annum:]

Provided that in relation to any decrease of capital the statutory percentage shall be in all cases six per cent:

Provided further that where the business was commenced on or after the 1st day of July, 1938, the foregoing percentages shall be increased from eight, ten and six per cent to ten, twelve and eight per cent, respectively;

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[6] Inserted by s. 2 of the Excess Profits Tax (Amendment) Act, 1941 (11 of 1941).

[7] Substituted for sub-clause (*b*) by s. 2 of the Excess Profits Tax (Amendment) Act, 1940 (42 of 1940).

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[8][(21A) "taxable territories" has the meaning assigned to that expression by clause (14A) of section 2 of the Indian Income-tax Act, 1922];

(22) "written down value" has the meaning assigned to that expression in sub-section (5) of section 10 of the Indian Income-tax Act, 1922.

3. Excess profits tax authorities.—(1) There shall be the following classes of excess profits tax authorities for the purposes of this Act, namely :—

(*a*) the Central Board of Revenue ;

(*b*) Commissioners of Excess Profits Tax ;

(*c*) Assistant Commissioners of Excess Profits Tax, who may be either Appellate Assistant Commissioners of Excess Profits Tax or Inspecting Assistant Commissioners of Excess Profits Tax ;

(*d*) Excess Profits Tax Officers ;

(*e*) Boards of Referees.

(2) Every Commissioner of Excess Profits Tax, Appellate Assistant Commissioner of Excess Profits Tax, Inspecting Assistant Commissioner of Excess Profits Tax and Excess Profits Tax Officer shall be a person who is exercising the functions of Commissioner of Income-tax, Appellate Assistant Commissioner of Income-tax, Inspecting Assistant Commissioner of Income-tax and Income-tax Officer, respectively, under the Indian Income-tax Act, 1922.

(3) The Central Board of Revenue shall, subject to the provisions of sub-section (2), appoint such persons as Commissioners of Excess Profits Tax, Appellate Assistant Commissioners of Excess Profits Tax, Inspecting Assistant Commissioners of Excess Profits Tax and Excess Profits Tax Officers as it thinks fit and such persons shall perform their functions in respect of such cases as the Central Board of Revenue may assign to them :

Provided that such directions shall be made entirely at the discretion of the Central Board of Revenue, and, in particular, it shall be competent for that Board to assign a case or class of cases to an officer who is not exercising in respect of that case or class of cases the corresponding functions in relation to the charge of income-tax under the Indian Income-tax Act, 1922.

(4) All officers and persons employed in the execution of this Act shall observe and follow the orders, instructions and directions of the Central Board of Revenue:

Provided that nothing in this sub-section applies to a Board of Referees :

Provided further that no such orders, instructions or directions shall be given so as to interfere with the discretion of the Appellate Assistant Commissioner in the exercise of his appellate functions.

(5) A Board of Referees shall consist of not less than three and not more than five persons, of whom not less than one-half shall be non-officials having business experience, and one shall be a judicial officer who has exercised the powers of a District Judge or who possesses such qualifications as are normally required for appointment to the post of District Judge, and who has held judicial office for a period of not less than ten years.

(6) Subject to the provisions of sub-section (5), the Central Government may make rules regulating the formation, composition and procedure of Boards of Referees.

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[8] Inserted by the Adaptation of Laws Order, 1950.

4. Charge of tax.—[9][(1)] Subject to the provisions of this Act, there shall, in respect of any business to which this Act applies, be charged, levied and paid on the amount by which the profits during any chargeable accounting period exceed the standard profits a tax (in this Act referred to as "excess profits tax") which shall, in respect of any chargeable accounting period ending on or before the 31st day of March, 1941, be equal to fifty per cent of that excess and shall, in respect of any chargeable accounting period beginning after that date, be equal to such percentage of that excess as may be fixed by the annual Finance Act : Div. 5 C

Provided that any profits which are, under the provisions of sub-section (3) of section 4 of the Indian Income-tax Act, 1922, exempt from income-tax, and all profits from any business of life insurance shall be totally exempt from excess profits tax under this Act :

[10][Provided further that, in the case of any business which includes the mining of any mineral, any bonus paid by or through the Central Government in respect of increased output of the mineral shall be totally exempt from excess profits tax under this Act.]

[11][(2) Where a chargeable accounting period falls partly before and partly after the end of March, 1941, the foregoing provisions of this section shall apply as if so much of that chargeable accounting period as falls before, and so much of that chargeable accounting period as falls after, the said end of March were each a separate chargeable accounting period, [12][and as if the excess of profits of that separate chargeable accounting period were an apportioned part of the excess of profits arising in the whole period determined in accordance with the provisions of section 7A].]

5. Application of Act.—This Act shall apply to every business of which any part of the profits made during the chargeable accounting period is chargeable to income-tax by virtue of the provisions of sub-clause (*i*) or sub-clause (*ii*) of clause (*b*) of sub-section (1) of section 4 of the Indian Income-tax Act, 1922, or of clause (*c*) of that sub-section :

Provided that this Act shall not apply to any business the whole of the profits of which accrue or arise without [13][the taxable territories] where such business is carried on by or on behalf of a person who is resident but not ordinarily resident in [13][the taxable territories] unless the business is controlled in India :

Provided further that where the profits of a part only of a business carried on by a person who is not resident in [13][the taxable territories] or not ordinarily so resident accrue or arise in [13][the taxable territories] or are deemed under the Indian Income-tax Act, 1922, so to accrue or arise, then except where the business being the business of a person who is resident but not ordinarily resident in [13][the taxable territories] is controlled in India, this Act shall apply only to such part of the business, and such part shall for all the purposes of this Act be deemed to be a separate business :

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[9] The original section 4 was renumbered as sub-section (1) by s. 3 of the Excess Profits Tax (Amendment) Act, 1941 (11 of 1941).

[10] Added by s. 2 of the Excess Profits Tax (Amendment) Ordinance, 1944 (8 of 1944).

[11] Added by s. 3 of the Excess Profits Tax (Amendment) Act, 1941 (11 of 1941).

[12] Substituted by s. 2 of the Excess Profits Tax (Second Amendment) Act, 1941 (24 of 1941).

[13] Substituted for "British India" by the Adaptation of Laws Order, 1950.

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[14][Provided further that this Act shall not apply to any business the whole of the profits of which accrue or arise in [15][the territories which, immediately before the 1st November, 1956, were comprised in Part B States]; and where the profits of a part of a business accrue or arise in [15][the said territories], such part shall, for the purposes of this provision, be deemed to be a separate business the whole of the profits of which accrue or arise in [15][the said territories], and the other part of the business shall, for all the purposes of this Act, be deemed to be a separate business.]

6. **Standard profits.**—(1) For the purposes of this Act, the standard profits of a business in relation to any chargeable accounting period shall, subject to the provisions of sub-sections (3) and (4), be an amount bearing to the profits of the business during the standard period, if in respect of that business a standard period is available, the same proportion as the chargeable accounting period bears to the standard period:

Provided that if the average amount of capital employed in the business during such chargeable accounting period is greater or less than the average amount of capital employed during the standard period, such amount shall be increased or decreased, as the case may be, by an amount calculated by applying the statutory percentage to the amount of such increase or decrease:

Provided further that in the case of a business which was commenced on or after the 31st day of March, 1936, the standard profits shall, at the option of the person carrying on the business, be an amount calculated by applying the statutory percentage to the average amount of capital employed in the business during such chargeable accounting period.

(2) For the purposes of this section the standard period shall, at the option of the person carrying on the business, be—

(*a*) the "previous year" as determined under section 2 of the Indian Income-tax Act, 1922, for the purpose of the income-tax assessment for the year ending on the 31st day of March, 1937, or the previous year as so determined for the year ending on the 31st day of March, 1938; or

(*b*) the "previous year" as so determined for the year ending on the 31st day of March, 1937, and that for the year ending on the 31st day of March, 1939; or

(*c*) the "previous year" as so determined for the year ending on the 31st day of March, 1938, and that for the year ending on the 31st day of March, 1939; or

(*d*) the "previous year" as so determined for the year ending on the 31st day of March, 1939, and that for the year ending on the 31st day of March, 1940:

Provided that in no case shall any period of less than nine months be taken as a standard period.

(3) If, within the period specified in the notice issued under sub-section (1) of section 13 [16][or within the extended period allowed by the Excess Profits Tax Officer under the proviso to that sub-section], the person carrying on the business makes an application to the Excess Profits Tax Officer in this behalf, the Excess Profits Tax Officer shall refer the application to the Board of Referees, and if the Board is satisfied that during the standard period the profits of the

[14] Added by s. 3 of the Excess Profits Tax (Second Amendment) Act, 1941 (24 of 1941)

[15] Substituted for "a Part B State" by the Adaptation of Laws (No. 3) Order, 1956, with effect from the 1st November, 1956.

[16] Inserted by s. 3 of the Excess Profits Tax (Amendment) Act, 1940 (42 of 1940).

business were less than might at the beginning of that period have been reasonably expected, it may direct that the standard profits shall be computed as if the profits during the standard period were such greater amount as it thinks just :

Provided that such amount shall not exceed the statutory percentage of the average amount of the capital employed in the business unless the Board is satisfied that owing to some specific cause peculiar to the business it is just that a greater amount should be allowed :

[17][Provided further that a determination on an application under this sub-section—

(*a*) shall have effect with respect to all subsequent chargeable accounting periods ;

(*b*) shall exclude any further application under this sub-section.]

(4) The standard profits shall be taken to be rupees thirty-six thousand in any case in which the standard profits computed in accordance with sub-section (1) are less than this sum :

Provided that if the chargeable accounting period is greater or less than one year the sum of rupees thirty-six thousand shall for the purpose of this sub-section be increased or decreased proportionately.

(5) Where the standard period includes any period prior to the commencement of Part III of the Government of India Act, 1935, during which Burma was part of [18][the taxable territories], there shall in computing the standard profits of a business under this section be excluded from the profits of the business during the standard period so much of such profits as arose or accrued or were received in Burma unless such profits are also included in the profits of the business during the chargeable accounting period.

7. Relief on occurrence of deficiency of profits.—Where a deficiency of profits occurs in any chargeable accounting period in any business, the profits of the business chargeable with excess profits tax shall be deemed to be reduced and relief shall be granted in accordance with the following provisions :—

(*a*) the aggregate amount of the profits so chargeable for the previous chargeable accounting periods shall be deemed to be reduced by the amount of the deficiency of profits and the amount of excess profits tax payable in respect thereof shall be deemed to be reduced accordingly and the relief necessary to give effect to the reduction shall be given by repayment or otherwise ;

(*b*) where the amount of the deficiency of profits exceeds the aggregate amount of the profits so chargeable for the previous chargeable accounting periods, or where there is no previous chargeable accounting period, the balance of the deficiency of profits or the whole of the deficiency, as the case may be, shall be applied in reducing any profits so chargeable for the next subsequent chargeable accounting period, and if and so far as it exceeds the amount of those profits any profits so chargeable for the next subsequent chargeable accounting period and so on :

[19][Provided that a deficiency of profits occurring in a chargeable accounting period beginning on or after the 1st day of April, 1941, shall first be applied so

[17] Inserted by s. 3 of the Excess Profits Tax (Amendment) Act, 1940 (42 of 1940).

[18] Substituted for "British India" by the Adaptation of Laws Order, 1950.

[19] Added by s. 4 of the Excess Profits Tax (Amendment) Act, 1941 (11 of 1941).

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(*a*) the application shall be treated as provisional only; and

(*b*) if it thereafter appears that there is no longer such an insufficiency as aforesaid, such adjustment shall be made as the Central Board of Revenue may by written order direct:

Provided further that where a chargeable accounting period falls partly before and partly after the end of March, 1941, the provisions of the preceding proviso shall apply as if so much of the chargeable accounting period as falls before, and so much of the chargeable accounting period as falls after, the said end of March, were each a separate chargeable accounting period, and as if the deficiency of profits of that separate chargeable accounting period were an apportioned part of the deficiency of profits occurring in the whole period; and any apportionment required to be made by this proviso shall be made by reference to the number of months or fractions of months in each of the parts of the whole chargeable accounting period.]

[20][7A. **Special provision for chargeable accounting period falling partly before and partly after the end of March, 1941.**—(1) In the case of a chargeable accounting period such as is referred to in sub-section (2) of section 4, the excess of profits of each of the separate chargeable accounting periods into which the whole chargeable period is deemed to be divided for the purposes of that sub-section, shall be determined in accordance with the provisions of sub-sections (2), (3) and (4), and in those sub-sections—

(*a*) references to the whole period, the first part of the period, and the second part of the period shall be construed, respectively, as references to the whole of the chargeable accounting period deemed to be divided, so much thereof as falls before the end of March, 1941, and so much thereof as falls after the said end of March;

(*b*) "excess profits" means the amount by which the profits for any period exceed the standard profits for that period.

(2) The profits or loss of, and the standard profits for, the whole period shall be computed first on the basis that rule 5A of the First Schedule and rule 2A of the Second Schedule do not apply to the period, and secondly on the basis that the said rules do apply to the period, and it shall then be ascertained, on each basis, whether there are excess profits or a deficiency of profits for the whole period, and, if so, what is the amount thereof.

(3) There shall be deemed to be for the first part of the period excess profits or a deficiency of profits, as the case may be, equal to an apportioned part of the excess profits or deficiency of profits ascertained under sub-section (2) on

[20] Inserted by s. 4 of the Excess Profits Tax (Second Amendment) Act, 1941 (24 of 1941).

the first basis mentioned therein, and there shall be deemed to be for the second part of the period excess profits or a deficiency of profits, as the case may be, equal to an apportioned part of the excess profits or deficiency of profits ascertained under sub-section (2) on the second basis mentioned therein ; and, for the purpose of giving relief for deficiencies of profits under section 7, the first part of the period and the second part of the period shall each be treated as if it were a separate chargeable accounting period.

(4) Any apportionment required to be made by sub-section (3) shall be made by reference to the number of months and fractions of months in each of the parts of the whole period.]

8. Successions and amalgamations.—(1) As from the date of any change in the persons carrying on a business, the business shall, subject to the provisions of this section, be deemed for all the purposes of this Act except for the purposes of determining the amount of the statutory percentage to have been discontinued, and a new business to have been commenced.

(2) Where the change took place before the 1st day of September, 1939, and consisted in the death or retirement of a partner, or the taking in of a partner, the persons carrying on the business after the change may, by notice given in writing before the prescribed date to the Excess Profits Tax Officer, elect that, for the purposes of the provisions of this Act relating to the computation of standard profits, the business shall not be deemed to have been discontinued.

(3) A business shall not, for the purposes of the provisions of this Act relating to the computation of standard profits, be deemed to be discontinued by reason of any change occurring on or after the 1st day of September, 1939, in the persons carrying it on, and the standard profits of the business in relation to any chargeable accounting period shall be computed accordingly, and, in particular, in computing the capital employed in the business after the change [21][and in considering, for the purposes of computing the profits of, and the capital employed during, any chargeable accounting period, whether any and, if so, what deductions are to be made in respect of depreciation of buildings, plant and machinery,] no regard shall be had to any consideration given in respect of the transfer of the business or any of the assets thereof on the occasion of the change.

(4) Where, on or after the 1st day of September, 1939, two or more businesses are amalgamated, the resulting business shall be treated for the purposes of the provisions of this Act relating to the computation of standard profits as if—

(*a*) it had been in existence throughout the period during which there were in existence any of the former businesses ;

(*b*) any profits made or losses incurred or capital employed in any of those former businesses had been made, incurred or employed in the resulting business ; and

(*c*) any assets of any of those former businesses had become assets of the resulting business when they became assets of the former business ;

and, in particular, in computing the capital employed in the resulting business [21][and in considering, for the purposes of computing the profits of, and the capital employed during, any chargeable accounting period, whether any and, if so,

[21] Inserted by s. 4 of the Excess Profits Tax (Amendment) Act, 1940 (42 of 1940).

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(5) Where, on or after the 1st day of September, 1939, part of a business is transferred as a going concern by the person theretofore carrying it on to another person, the part transferred and the part not transferred shall each be deemed for the purposes of the provisions of this Act relating to the computation of standard profits to be a continuation of the original business, and the said provisions, including the provisions of this section relating to amalgamations, shall apply accordingly [22]* * * :

Provided that, for the purposes aforesaid, such apportionments shall be made of the profits made, and losses incurred, and the capital employed, in the original business, and of any assets of the original business as may appear to the Excess Profits Tax Officer, or on appeal in the prescribed time and manner to the Board of Referees, to that Board, to be just.

(6) Notwithstanding anything in the foregoing provisions of this section, where a business was carried on immediately before the first day of April, 1936, and that business, or the main part of that business, was transferred after the said day and before the 1st day of September, 1939, by the person carrying it on to another person, the Excess Profits Tax Officer, if he is satisfied that the business carried on after the transference was not substantially different from the business or part transferred, shall, on the application of the person carrying on the business after the transference, treat that person, for the purposes of the provisions of this Act relating to the computation of standard profits, as if he had carried on the transferred business or part of the business as from the date of the commencement of that business [23]* * *.

(7) Where, on or after the 1st day of September, 1939, a partner in a firm carrying on a business to which this Act applies dies, then notwithstanding anything contained in sub-section (1) any deficiency of profits in respect of any chargeable accounting period ending on or before the date of his death shall, if it has not been fully applied in reducing the profits of any chargeable accounting period under section 7, be carried forward and applied in reducing any profits from the same business carried on by the surviving partner or partners in the first chargeable accounting period after the death of the partner, and if and so far as it exceeds the amount of those profits, in reducing any profits from such business in the next subsequent chargeable accounting period and so on.

[24][(8) Where—

(*a*) a business is, by virtue of sub-section (2) or sub-section (3), deemed not to have been discontinued ; or

(*b*) a business is, by virtue of sub-section (4), to be treated as if it had been in existence throughout the period during which there was in existence any other business ; or

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[22] "Subject to any necessary modifications" omitted by s. 4 of the Excess Profits Tax (Amendment) Act, 1940 (42 of 1940).

[23] "Subject, however, to such modifications (including modifications as respects the computation of capital) as he may consider just" omitted, *ibid.*

[24] Added, *ibid.*

(*c*) a business is, by virtue of sub-section (5), to be treated as a continuation of another business ; or **Div. 5 C**

(*d*) any person who is carrying on a business after a transfer is treated, by virtue of sub-section (6), as having carried on the business as from a date before the transfer,

the provisions of this Act relating to the computation of profits and capital for the purposes of excess profits tax shall, both as respects the standard period and any chargeable accounting period, have effect subject to such modifications, if any, as the Excess Profits Tax Officer may think just, and the Excess Profits Tax Officer may make such alterations in the periods which would otherwise be the chargeable accounting periods of the business as he thinks proper :

Provided that if the Excess Profits Tax Officer makes any such modifications and the person carrying on the business is dissatisfied with the modifications so made, or if the person carrying on the business is dissatisfied with the refusal of the Excess Profits Tax Officer to make any such modifications, he may, at any time before the expiry of forty-five days from the date on which the order of the Excess Profits Tax Officer is communicated to him, appeal to the Board of Referees through the Excess Profits Tax Officer.]

9. **Inter-connected companies.**—(1) Where any interest, annuity or other annual payment, or any royalty or rent, is paid by one company to another company, and one of those companies is a subsidiary of the other, or both are subsidiaries of a third company, the capital, profits and losses of both companies shall be computed for the purposes of this Act as if—

(*a*) the interest, annuity, annual payment, royalty or rent were not payable ;

(*b*) any debt in respect of which any such interest is payable did not exist ; and

(*c*) any asset in respect of which any such royalty or rent is payable were the property of the company paying the royalty or the rent.

[25][(1A) Where—

(*a*) any debt is owing to any company by another company ; and

(*b*) one of those companies is a subsidiary of the other, or both are subsidiaries of a third company ; and

(*c*) no interest is payable in respect of the debt, but the circumstances in which the debt came into existence or is allowed to continue to exist are such that the debt represents in substance capital employed in the business of the debtor company,

the capital of both companies shall be computed as if the debt did not exist.]

(2) Where—

(*a*) a company (hereinafter referred to as "the principal company") is resident in [1][the taxable territories] and is not a subsidiary of any other company resident in [1][the taxable territories] ; and

[25] Inserted by s. 5 of the Excess Profits Tax (Amendment) Act, 1940 (42 of 1940).

[1] Substituted for "British India" by the Adaptation of Laws Order, 1950.

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(*b*) during the whole or any part of any chargeable accounting period of the principal company, another company, whether or not resident or carrying on business within [2][the taxable territories] (hereinafter referred to as "the subsidiary company"), is a subsidiary of the principal company,

the following provisions of this section shall, subject to the provisions of section 5, have effect in relation to that chargeable accounting period.

(3) If the subsidiary company is a subsidiary of the principal company throughout the chargeable accounting period, such capital employed in, and profits or losses arising from, the business of the subsidiary company as is employed or arise in—

(*i*) the chargeable accounting period, or

(*ii*) any year constituting or comprised in the standard period of the principal company,

shall be treated for the purposes of this Act as if it or they were capital employed in, or, as the case may be, profits or losses arising from, the business of the principal company.

(4) If the subsidiary company is a subsidiary of the principal company during part only of the chargeable accounting period, the excess or deficiency of profits of the subsidiary company for that part of that period shall be treated as increasing or, as the case may be, decreasing the excess or deficiency of profits of the principal company for the whole period and shall not be deemed to be an excess or deficiency of profits of the subsidiary company.

In this sub-section, the expressions "excess" and "deficiency" mean, in relation to profits, an excess or deficiency in relation to the standard profits of the subsidiary company or, as the case may be, the principal company.

(5) In any case to which sub-section (3) or sub-section (4) applies, such alteration, if any, of the periods which would otherwise be chargeable accounting periods of the subsidiary company shall be made as the Central Board of Revenue may direct.

(6) For the purposes of this section, a company shall be deemed to be a subsidiary of another company if and so long as not less than nine-tenths of its ordinary share capital is owned by that other company, whether directly or through another company or other companies, or partly directly and partly through another company or other companies.

(7) The amount of ordinary share capital of one company owned by a second company through another company or other companies, or partly directly and partly through another company or other companies, shall be determined in accordance with the provisions of the Third Schedule.

(8) In this section and the Third Schedule references to ownership shall be construed as references to beneficial ownership, and the expression "ordinary share capital", in relation to a company, means all the issued share capital (by whatever name called) of the company, other than capital the holders whereof have a right to a dividend at a fixed rate but have no other right to share in the profits of the company.

(9) The principal company shall be entitled to allocate to its subsidiary company or companies the respective proportionate shares of the excess profits tax payable by the whole group.

[2] Substituted for "British India" by the Adaptation of Laws Order, 1950.

(10) The excess profits tax payable by virtue of this section by the principal company in respect of the profits of any subsidiary company shall, for the purposes of section 12, be deemed to have been paid by the subsidiary company and not by the principal company.

[3][**10. Artificial transactions.**—(1) In computing profits for the purposes of this Act no deduction shall be made in respect of any transaction or operation of any nature if and so far as it appears that the transaction or operation has artificially reduced or would artificially reduce the profits.

(2) If the Excess Profits Tax Officer is satisfied that any person has entered into or carried out any transaction or operation by which the profits have been or would be artificially reduced, he may, with the previous approval of the Inspecting Assistant Commissioner direct that such person shall pay, in addition to any excess profits tax for which he is or, but for such transaction or operation, would be liable, a penalty not exceeding the tax evaded or sought to be evaded.]

[4][**10A. Transactions designed to avoid or reduce liability to excess profits tax.**—(1) Where the Excess Profits Tax Officer is of opinion that the main purpose for which any transaction or transactions was or were effected (whether before or after the passing of the Excess Profits Tax (Second Amendment) Act, 1941) was the avoidance or reduction of liability to excess profits tax, he may, with the previous approval of the Inspecting Assistant Commissioner, make such adjustments as respects liability to excess profits tax as he considers appropriate so as to counteract the avoidance or reduction of liability to excess profits tax which would otherwise be effected by the transaction or transactions.

(2) Without prejudice to the generality of the powers conferred by sub section (1), the powers conferred thereby extend—

(*a*) to the charging with excess profits tax of persons who but for the adjustments would not be chargeable with any tax or would not be chargeable to the same extent;

(*b*) to the charging of a greater amount of tax than would be chargeable but for the adjustments.

(3) Any person aggrieved by a decision of the Excess Profits Tax Officer under this section may appeal in the prescribed time and manner to the Appellate Tribunal.]

11. Relief in respect of double excess profits taxation.—(1) The Central Government may by notification in the official Gazette make provision for the granting of relief in cases where both excess profits tax under this Act and excess profits tax under any law in force in the United Kingdom, in [5][any territory which, immediately before the 1st November, 1956, was comprised in a Part B State], or in any other part of His Majesty's Dominions have been paid upon the profits of any business if it appears to the Central Government that the laws of the United Kingdom or of [6][that territory] or of that other part of His Majesty's Dominions provide for corresponding relief in respect of excess profits tax charged on profits both in the United Kingdom or in [6a][that territory] or in that part and in [7][the taxable territories]:

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[3] Substituted by s. 5 of the Excess Profits Tax (Second Amendment) Act, 1941 (24 of 1941).

[4] Inserted by s. 6, *ibid.*

[5] Substituted for "any Part B State" by the Adaptation of Laws (No. 3) Order, 1956, with effect from the 1st November, 1956.

[6] Substituted for "that Part B State", *ibid.*, with effect from the 1st November, 1956.

[6a] Substituted for "that State", *ibid.*, with effect from the 1st November, 1956.

[7] Substituted for "British India" by the Adaptation of Laws Order, 1950.

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Provided that where under section 19 of the Finance (No. 2) Act, 1939, national defence contribution has been paid in the United Kingdom in lieu of excess profits tax, that portion of the national defence contribution so paid which is equal to the excess profits tax which would otherwise have been payable shall, for the purposes of this sub-section, be deemed to be excess profits tax paid in the United Kingdom.

(2) If any person, who has paid excess profits tax under this Act for any chargeable accounting period in respect of profits arising outside India in a country the laws of which do not provide for any relief in respect of excess profits tax charged in [8][the taxable territories], proves that he has paid excess profits tax under the laws of the said country in respect of the same profits, he shall be entitled to the deduction from the excess profits tax payable in [8][the taxable territories] of a sum equal to one-half thereof or to one-half of the excess profits tax payable in the said country, whichever is the less.

[9][**11A. Agreement for avoidance of double taxation in India and Pakistan.**—The Central Government may enter into an agreement with Pakistan for the avoidance of double taxation of profits under this Act and under the corresponding law in force in Pakistan, and may, by notification in the official Gazette, make such provision as may be necessary for implementing the agreement.]

12. Allowance of excess profits tax in computing income for income-tax purposes.—(1) The amount of the excess profits tax payable in respect of a business for any chargeable accounting period diminished by any amount allowable by way of relief under the provisions of section 11 [10][or section 11A], shall, in computing for the purposes of income-tax or super-tax the profits and gains of that business, be allowed to be deducted as an expense incurred in that period.

(2) There shall also be so deducted the amount of any excess profits tax payable under any law in force in a country outside [8][the taxable territories] on the profits of the business in respect of any chargeable accounting period [11][to the extent to which such profits are liable to excess profits tax under this Act], after diminishing such amount by any amount which is allowable by way of relief by repayment, set-off or otherwise under any law in the country where the tax is payable providing for the granting of relief in that country where excess profits tax has also been charged in [12][the taxable territories]:

Provided that where, under the provisions of this Act relating to deficiencies of profits or under any corresponding law in force in the said country without [12][the taxable territories], relief is given by way of repayment from excess profits tax chargeable for any chargeable accounting period previous to that in which the deficiency occurs, the amount of the deduction allowed under sub-section (1) or sub-section (2) shall not be altered, but the amount repayable shall be taken into account in computing the profits and gains of the business for the purposes of income-tax as if it were a profit of the business accruing in the [13][previous year (as

[8] Substituted for "British India", *ibid.*

[9] Inserted by the India (Adaptation of Income tax, Profits Tax and Revenue Recovery Acts) Order, 1947 (G.G.O. 31).

[10] Inserted, *ibid.*

[11] Substituted for "to the extent that such profits arose in the said country" by s. 6 of the Excess Profits Tax (Amendment) Act, 1940 (42 of 1940).

[12] Substituted for "British India" by the Adaptation of Laws Order, 1950.

[13] Substituted for "chargeable accounting period" by s. 6 of the Excess Profits Tax (Amendment) Act, 1940 (42 of 1940).

determined for that business for the purposes of the Indian Income-tax Act, 1922)] in which the deficiency of profits occurs. Div. 5 C

13. Issue of notices for assessment.—(1) The Excess Profits Tax Officer may, for the purposes of this Act, require any person whom he believes to be engaged in any business to which this Act applies, or to have been so engaged during any chargeable accounting period, or to be otherwise liable to pay excess profits tax, to furnish within such period, not being less than sixty days from the date of the service of the notice, as may be specified in the notice, a return in the prescribed form and verified in the prescribed manner setting forth (along with such other particulars as may be provided for in the notice) with respect to any chargeable accounting period specified in the notice the profits of the business and the standard profits of the business as computed in accordance with the provisions of section 6 or the amount of deficiency available for relief under section 7 :

Provided that the Excess Profits Tax Officer may, in his discretion, extend the date for the delivery of the return.

(2) The Excess Profits Tax Officer may serve on any person upon whom a notice has been served under sub-section (1) a notice requiring him on a date to be therein specified to produce, or cause to be produced, such accounts or documents as the Excess Profits Tax Officer may require and may from time to time serve further notices in like manner requiring the production of such further accounts or documents or other evidence as he may require :

Provided that the Excess Profits Tax Officer shall not require the production of any accounts relating to a period prior to the "previous year" as determined under section 2 of the Indian Income-tax Act, 1922, for the purpose of the income-tax assessment for the year ending on the 31st day of March, 1937.

14. Assessments.—(1) The Excess Profits Tax Officer shall, by an order in writing after considering such evidence, if any, as he has required under section 13, assess to the best of his judgment the profits liable to excess profits tax and the amount of excess profits tax payable on the basis of such assessment, or if there is a deficiency of profits, the amount of that deficiency and the amount of excess profits tax, if any, repayable and shall furnish a copy of such order to the person on whom the assessment has been made.

(2) Excess profits tax payable in respect of any chargeable accounting period shall be payable by the person carrying on the business in that period.

(3) Where two or more persons were carrying on the business jointly in the chargeable accounting period, the assessment shall be made upon them jointly and, in the case of a partnership, may be made in the partnership name.

(4) Where by virtue of the foregoing provisions an assessment could, but for his death, have been made on any person either solely or jointly with any other person or persons, the assessment may be made on his legal representative either solely or jointly with that other person or persons, as the case may be.

[14][14A. **Power to make provisional assessments.**—(1) The Excess Profits Tax Officer, before proceeding to make an assessment (in this section referred to as the regular assessment) under section 14, may, at any time after the expiry of the period specified in the notice issued under sub-section (1) of section 13 as that within which the return therein referred to is to be furnished, and

[14] Inserted by s. 3 of the Excess Profits Tax Ordinance, 1943 (16 of 1943).

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whether the return has or has not been furnished, proceed to make in summary manner a provisional assessment of the amount by which the profits of the chargeable accounting period exceed the standard profits, and the amount of excess profits tax payable thereon.

(2) Before making such provisional assessment the Excess Profits Tax Officer shall give notice in the prescribed form to the person on whom assessment is to be made of his intention to do so, and shall with the notice forward a statement of the amount of the proposed assessment, and the said person shall be entitled to deliver to the Excess Profits Tax Officer at any time within fourteen days of receipt of the said notice a statement of his objections, if any, to the amount of the proposed assessment.

(3) On expiry of one month from the date of service of the notice referred to in sub-section (2), or earlier if the assessee agrees to the proposed assessment, the Excess Profits Tax Officer may, after taking into account the objections, if any, made under sub-section (2), make a provisional assessment, and shall furnish a copy of the order of assessment to the assessee :

Provided that assent to the amount of the assessment, or failure to make objection to it, shall in no way prejudice the assessee in relation to the regular assessment.

(4) In making any such provisional assessment the Excess Profits Tax Officer shall make allowances for any deficiencies of profits for previous chargeable accounting periods which are under the provisions of section 7 to be set off against the excess profits of the chargeable accounting period in respect of which the assessment is being made :

Provided that where such deficiencies of profits have not been determined under sub-section (1) of section 14 the Excess Profits Tax Officer shall estimate the amount thereof to the best of his judgment.

(5) There shall be no right of appeal against a provisional assessment made under this section, and it shall, until a regular assessment is made in due course under section 14, determine the amount of excess profits tax due from the assessee.

(6) If, when a regular assessment is made in due course under section 14, the amount of excess profits tax payable thereunder is found to exceed that determined as payable by the provisional assessment, it shall be reduced by the amount determined as payable by the provisional assessment.

(7) If, when a regular assessment is made in due course under section 14, the amount of excess profits tax payable thereunder is found to be less than that determined as payable by the provisional assessment, any excess of tax paid as a result of the provisional assessment shall be refunded to the assessee together with interest at 5 per cent per annum calculated from the date of payment of such excess tax to the date of the order of refund, both days inclusive.]

15. Profits escaping assessment.—If, in consequence of definite information which has come into his possession, the Excess Profits Tax Officer discovers that profits of any chargeable accounting period chargeable to excess profits tax have escaped assessment, or have been underassessed, or have been the subject of excessive relief, he may at any time [15] * * * * serve on the person

[15] The words "within five years of the end of the chargeable accounting period in question" were omitted by s. 16 of the Income-tax and Excess Profits Tax (Amendment) Act, 1947 (22 of 1947), and shall be deemed never to have been there.

liable to such tax a notice containing all or any of the requirements which may be included in a notice under section 13, and may proceed to assess or re-assess the amount of such profits liable to excess profits tax and the provisions of this Act shall, so far as may be, apply as if the notice were a notice issued under that section. Div. 5 C

16. **Penalties.**—If the Excess Profits Tax Officer, the Appellate Assistant Commissioner or the Commissioner, in the course of any proceedings under this Act, is satisfied that any person has, without reasonable cause, failed to furnish the return required under sub-section (1) of section 13, or to produce or cause to be produced the accounts or documents or other evidence required by the Excess Profits Tax Officer under sub-section (2) of that section, or has concealed particulars of the profits made by or capital employed in the business, or has deliberately furnished inaccurate particulars of such profits or capital, he may direct that such person shall pay by way of penalty, in addition to the amount of any excess profits tax payable, a sum not exceeding—

(*a*) where the person has failed to furnish the return required under sub-section (1) of section 13, the amount of the excess profits tax payable; and

(*b*) in any other case, the amount of excess profits tax which would have been avoided if the return made had been accepted as correct:

Provided that the Excess Profits Tax Officer shall not impose any penalty under this section without the previous approval of the Inspecting Assistant Commissioner.

17. **Appeals.**—(1) Any person aggrieved by a decision made in pursuance of section 8, or objecting to the amount of excess profits tax for which he is liable as assessed by the Excess Profits Tax Officer or denying his liability to be assessed under this Act, or objecting to any penalty imposed by the Excess Profits Tax Officer, or to the amount of any deficiency of profits as assessed by the Excess Profits Tax Officer, or to the amount allowed by the Excess Profits Tax Officer by way of relief under any provision of this Act or to any refusal by the Excess Profits Tax Officer to grant relief may appeal to the Appellate Assistant Commissioner:

Provided that no appeal shall lie against a determination of the amount of the profits of any standard period where those profits have been determined in accordance with the [16][second] proviso to rule 1 of the First Schedule except in respect of adjustments made under the provisions of that Schedule:

[17][Provided further that no appeal shall lie under this section against any apportionment made by the Excess Profits Tax Officer under the proviso to sub-section (5) of section 8, against any [18][refusal to make modifications or against any modifications] made by the Excess Profits Tax Officer under sub-section (8) of section 8, against any decision of the Excess Profits Tax Officer under rule 11 of the First Schedule, or against any decision of the Board of Referees or the Central Board of Revenue.]

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[16] Substituted for "first" by s. 5 of the Excess Profits Tax (Amendment) Act, 1941 (11 of 1941).

[17] Substituted by s. 7 of the Excess Profits Tax (Amendment) Act, 1940 (42 of 1940).

[18] Substituted for "modifications" by s. 5 of the Excess Profits Tax (Amendment) Act, 1941 (11 of 1941).

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(2) An appeal shall ordinarily be presented within forty-five days of receipt of the notice of demand relating to the assessment or penalty objected to, or in the case of an appeal against the assessment of a deficiency of profits, within forty-five days of the receipt of the copy of the order determining the deficiency, or in the case of an appeal against the amount of a relief granted or a refusal to grant relief, within forty-five days of the receipt of the intimation of the order granting or refusing to grant the relief, but the Appellate Assistant Commissioner may admit an appeal after the expiration of that period if he is satisfied that the appellant had sufficient cause for not presenting it within that period.

(3) An appeal shall be in the prescribed form and shall be verified in the prescribed manner.

(4) The Appellate Assistant Commissioner shall hear and determine the appeal and, subject to the provisions of this Act, shall pass such orders as he thinks fit, and such orders may include an order enhancing the assessment or a penalty :

Provided that an order enhancing an assessment or penalty shall not be made unless the person affected thereby has been given a reasonable opportunity of showing cause against such enhancement.

(5) The procedure to be adopted in the hearing and determination of appeals shall be in accordance with the rules made in this behalf by the Central Board of Revenue.

18. Appeal to Commissioner against Appellate Assistant Commissioner's orders, imposing penalties or enhancing assessments or penalties.—(1) Any person objecting to an order passed by an Appellate Assistant Commissioner imposing on him a penalty under section 16 or enhancing his assessment or enhancing a penalty under section 17 may appeal to the Commissioner within thirty days of the date on which he was served with notice of such order

(2) In disposing of the appeal the Commissioner may, after giving the appellant an opportunity of being heard, pass such orders thereon as he thinks fit.

(3) On the coming into operation of Part II of the Indian Income-tax (Amendment) Act, 1939, this section shall cease to have effect.

19. Power of revision.— (1) The Commissioner may of his own motion call for the record of any proceeding under this Act which has been taken by any Excess Profits Tax Officer or Appellate Assistant Commissioner subordinate to him, and on receipt of the record may make such inquiry, or cause such inquiry to be made, and, subject to the provisions of this Act, may pass such orders thereon (including an order enhancing an assessment) as he thinks fit :

Provided that he shall not pass any order prejudicial to a person to whose business this Act applies without hearing him, or giving him a reasonable opportunity of being heard.

(2) On the coming into operation of Part II of the Indian Income-tax (Amendment) Act, 1939, sub-section (1) shall cease to have effect, but thereafter any Excess Profits Tax Officer or any person in respect of whose business an order under section 14 has been passed who objects to an order passed by an Appellate Assistant Commissioner under section 16 or section 17 may, within the prescribed time and in the prescribed manner, appeal against such order to the Appellate

Tribunal constituted under the Indian Income-tax Act, 1922, and that Tribunal shall have all such powers in disposing of the appeal as it has in respect of appeals preferred to it under the Indian Income-tax Act, 1922. Div. 5 C

20. Rectification of mistakes.—The Commissioner may, at any time within four years from the date of any order passed whether by himself or by any Appellate Assistant Commissioner or Excess Profits Tax Officer under this Act, rectify any mistake in any evidence recorded during assessment or appellate proceedings, or any mistake apparent from the record and shall within the like period rectify any mistake apparent from the record which has been brought to his notice by a person to whose business this Act applies :

Provided that no such rectification shall be made having the effect of enhancing the liability of any person unless that person has been given a reasonable opportunity of being heard.

21. Application of provisions of Act XI of 1922.—The provisions of sections 4A, 4B, 10, 13, 24B, 29, 36 to 44C (inclusive), 45 to 48 (inclusive), 49E, 49F, 50, 54, 61 to 63 (inclusive), 65 to 67A (inclusive) of the Indian Income-tax Act, 1922, shall apply with such modifications, if any, as may be prescribed, as if the said provisions were provisions of this Act and referred to excess profits tax instead of to income-tax, and every officer exercising powers under the said provisions in regard to income-tax may exercise the like powers under this Act in regard to excess profits tax in respect of cases assigned to him under sub-section (3) of section 3 as he exercises in relation to income-tax under the said Act :

Provided that references in the said provisions to the assessee shall be construed as references to a person to whose business this Act applies.

[19][**21A. Application of Income-tax Act before 15th day of August, 1947, with certain modification.**—Any references in this Act to the Indian Income-tax Act, 1922, shall, in relation to the profits of any chargeable accounting period and to the state of affairs and all the circumstances necessary to determine the charge to excess profits tax, mean the said Act as in force in the relevant period :

Provided that whatever be the relevant period, references to section 46 of the said Act shall be deemed to include references to sub-sections (8), (9) and (10) of that section.]

22. Income-tax papers to be available for the purposes of this Act.—(1) Notwithstanding anything contained in the Indian Income-tax Act, 1922, all information contained in any statement or return made or furnished under the provisions of that Act or obtained or collected for the purposes of that Act may be used for the purposes of this Act.

(2) All information contained in any statement or return made or furnished under the provisions of this Act or obtained or collected for the purposes of this Act may be used for the purposes of the Indian Income-tax Act, 1922.

23. Failure to deliver returns or statements.—If any person fails, without reasonable cause or excuse, to furnish in due time any return or statement, or to produce, or cause to be produced, any accounts or documents required to be produced under section 13, he shall on conviction by a Magistrate be punishable with fine which may extend to five hundred rupees, and with a further fine which may extend to fifty rupees for every day during which the default continues.

[19] Inserted by the India (Adaptation of Income-tax, Profits Tax and Revenue Recovery Acts) Order, 1947 (G.G.O. 31).

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24. False statement and declaration.—If a person makes in any return required under section 13 any statement which is false, and which he either knows or believes to be false, or does not believe to be true, he shall be punishable on conviction by a Magistrate with simple imprisonment which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

25. Institution of proceedings and composition of offences.—(1) A person shall not be proceeded against for an offence under section 23 or section 24 except at the instance of the Inspecting Assistant Commissioner.

(2) No prosecution for an offence punishable under section 23 or section 24 or under the Indian Penal Code shall be instituted in respect of the same facts as those in respect of which a penalty has been imposed under this Act.

(3) The Inspecting Assistant Commissioner may, either before or after the institution of proceedings, compound any offence punishable under section 23 or section 24.

26. Power of Central Board of Revenue to grant relief in special cases.—(1) If [20][on an application made to it through the Excess Profits Tax Officer] the Central Board of Revenue is satisfied in the case of any business that special circumstances exist which render it inequitable that the standard profits of the business in relation to any chargeable accounting period should be computed in accordance with the provisions of sub-section (1) of section 6, and that no relief or insufficient relief has been granted under the provisions of sub-section (3) of that section, the Central Board of Revenue may direct that the standard profits of the business shall be computed to be such greater amount as the Central Board of Revenue thinks just:

Provided that such amount shall not exceed the statutory percentage of the average amount of the capital employed in the business unless the Central Board of Revenue is satisfied that owing to some specific cause peculiar to the business it is just that a greater amount should be allowed and that the relief, if any, afforded by the Board of Referees under sub-section (3) of section 6 is inadequate:

[21][Provided further that a determination on an application under this sub-section—

(*a*) shall have effect with respect to all subsequent chargeable accounting periods;

(*b*) shall exclude any further application under this sub-section.]

(2) Without prejudice to the generality of the provisions of sub-section (1) the Central Board of Revenue shall, in considering the making of a direction under that sub-section, have regard to the following circumstances, namely:

(*a*) that the capital employed in a business commenced on or after the 1st day of July, 1938, is so small in relation to the volume of the activities of the business that to compute the standard profits in accordance with the provisions of section 6 would be inequitable, taking into account the normal profits made in similar businesses;

(*b*) that owing to the nature of the business heavy expenditure by way of preliminary expenses or expenses in connection with experimental or development work has been incurred in accounting periods closely preceding the chargeable accounting period and that during the chargeable

[20] Inserted by s. 8 of the Excess Profits Tax (Amendment) Act, 1940 (42 of 1940).
[21] Added by s. 8 of the Excess Profits Tax (Amendment) Act, 1940 (42 of 1940).

accounting period such expenditure would normally fall to be written off wholly or partly in the books of the person chargeable to excess profits tax ;

(*c*) that the business is of a pioneer nature, that is to say, is concerned with an industrial process or a form of manufacture or production not undertaken in [22][the taxable territories] before the 1st day of April, 1932, and has not been in existence long enough to have paid income-tax for the previous year as determined for the purpose of the income-tax assessment for the year beginning on the 1st day of April, 1937.

(3) If [23][on an application made to it through the Excess Profits Tax Officer] the Central Board of Revenue is satisfied that the computation in accordance with the provisions of Schedule I of the profits of a business during any chargeable accounting period would be inequitable, owing to any of the following circumstances, namely :—

(*a*) any postponement or suspension, as a consequence of the present hostilities, of renewals or repairs, or

(*b*) the provision of buildings, plant or machinery which will not be required for the purposes of the business after the termination of the present hostilities, or

(*c*) difficulties in bringing into [22][the taxable territories] income arising outside [22][the taxable territories] where the country in which the income accrued prohibits or restricts by its laws the remittance of money to [22][the taxable territories], and loss in the remittance to [22][the taxable territories] of such income because of fluctuations in the rate of exchange between that country and [22][the taxable territories], [24][or]

[24][(*d*) in the case of any business which includes the winning of any mineral (including mineral oil) the winning of which is of exceptional importance for the prosecution of the present war, an increase in the output of the mineral which was essential in the national interest and which has had the effect of shortening the period during which but for such increased wartime output the source of the mineral might have been expected to be exhausted,]

the Central Board of Revenue may direct that such allowances shall be made in computing the profits of the business during that chargeable accounting period as the Central Board of Revenue thinks just :

Provided that in making such direction the Central Board of Revenue may impose such conditions as it deems appropriate.

[25][(4) An application to the Central Board of Revenue under this section shall be presented to the Excess Profits Tax Officer before the expiry of the period specified in the notice issued under sub-section (1) of section 13 or of the extended period allowed by the Excess Profits Tax Officer under the proviso to that sub-section, but in the case of an application under sub-section (1) of this section, if the person carrying on the business has made or is making an application under sub-section (3) of section 6, the application shall be presented to the Excess Profits

[22] Substituted for "British India" by the Adaptation of Laws Order, 1950.

[23] Inserted by s. 8 of the Excess Profits Tax (Amendment) Act, 1940 (42 of 1940).

[24] Inserted by s. 7 of the Excess Profits Tax (Second Amendment) Act, 1941 (24 of 1941)

[25] Added by s. 8 of the Excess Profits Tax (Amendment) Act, 1940 (42 of 1940).

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[1][26A. **Further powers of Central Board of Revenue to grant certain relief.**—(1) If on an application made to it through the Excess Profits Tax Officer, the Central Board of Revenue is satisfied that a person who in a chargeable accounting period ending on the 31st day of March 1946 carried on a business the profits of which for any chargeable accounting period are charged with excess profits tax,—

(*i*) incurred during the period commencing on the 1st day of April 1946 and ending on the 31st day of December 1947, in connection with that business,—

(*a*) expenditure on the removal of works constructed for protection against enemy attack ;

(*b*) where under the orders of a competent authority the business was wholly or partly removed during the war, expenditure on again removing the business or part thereof ;

(*c*) where any physical assets held for the purposes of the business were altered to adapt them to war conditions, expenditure on re-adapting them to normal requirements ;

(*d*) expenditure in consequence of the termination of any contract for the supply of goods, materials or services, or the lease of buildings or machinery to him, where that contract is terminated by reason of the termination of a contract for the provision by him of goods, materials or services for the purposes of the war ; or

(*ii*) incurred during the period commencing on the 1st day of April 1946 and ending on the 31st day of December 1947, a loss on the sale of trading stock held on the 31st day of March 1946 for the purposes of the business ; or

(*iii*) incurred in any accounting period ending on or before the 31st day of March 1946 in connection with that business any expenditure referred to in the sub-clauses of clause (*i*) which, except under the provisions of this sub-section, is not allowable, either wholly or partly, in computing the profits of such accounting period,—

the Central Board of Revenue may direct that such allowance as it thinks just shall be made in computing the profits of the business during the chargeable accounting period ending on the 31st day of March 1946, and effect shall be given to such direction by repayment or otherwise, as the case may require :

Provided that in giving any such direction, the Central Board of Revenue may impose such conditions as it considers appropriate :

Provided further that where the applicant satisfies the Central Board of Revenue that it was not possible to complete any work referred to in sub-clauses (*a*), (*b*) and (*c*) of clause (*i*) within the period specified in that clause, the Central Board of Revenue may extend the said period to such date as it considers reasonable :

[1] Inserted by s. 17 of the Income-tax and Excess Profits Tax (Amendment) Act, 1947 (22 of 1947).

Provided further that, where any change has taken place in the persons carrying on the business, the persons carrying it on after the change shall have the same right to make an application under this sub-section in respect of any expenditure referred to in sub-clauses (*b*) and (*c*) of clause (*i*) as the persons previously carrying on the business would have had if there had been no such change **Div. 5 C**

(2) Where an accounting period included, but did not end on, the 31st day of March 1946, all expenditure referred to in the sub-clauses of clause (*i*) of sub-section (1) which would, apart from the provisions of this sub-section and rule 11 of Schedule I, be allowable as a deduction in computing the profits of the said accounting period, shall be treated for the purposes of sub-section (1) as if it were incurred after that day, and if an application is made under this section, no deduction from, or in computing, the profits of any accounting period or chargeable accounting period shall be allowed in respect of such expenditure otherwise than under sub-section (1).

(3) Where a change takes place in the persons carrying on a business, or a person carrying on a business, being a body corporate, becomes or ceases to be a subsidiary company or principal company within the meaning of sub-section (6) of section 9, and where except for the happening of that event relief would be allowable under this section, the Central Board of Revenue may, if it thinks fit, allow such relief under this section as it considers just, having regard to the extent to which the persons directly or indirectly interested in the business or body corporate, as the case may be, before the change remain interested therein after the change.]

27. Power to make rules.—(1) The Central Board of Revenue may, subject to the control of the Central Government, make rules for carrying out the purposes of this Act.

(2) Without prejudice to the generality of the foregoing power, such rules may—

(*a*) prescribe the procedure to be followed on appeals, applications for rectification of mistakes, and applications for refunds;

(*b*) provide for the adaptation to excess profits tax of any of the provisions of the Indian Income-tax Act, 1922, which are made applicable to excess profits tax by section 21, or of any rules made under any such provision;

(*c*) provide in regard to companies whose business consists wholly or mainly in the dealing in or holding of investments for the granting of exemption or relief from liability to excess profits tax of profits derived from investments in other companies the profits of which have been subjected to excess profits tax in [2][the taxable territories];

(*d*) provide for any matter which by, or under, this Act is to be prescribed.

(3) The power to make rules conferred by this section shall be exercised in like manner as the power to make rules under section 59 of the Indian Income-tax Act, 1922.

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[2] Substituted for "British India" by the Adaptation of Laws Order, 1950.

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SCHEDULE I

[*See* SECTION 2(19)]

Rules for the computation of profits for purposes of Excess Profits Tax

1. The profits of a business during the standard period, or during any chargeable accounting period, shall be separately computed, and shall, subject to the provisions of this Schedule, be computed on the principles on which the profits of a business are computed for the purposes of income-tax under section 10 of the Indian Income-tax Act, 1922 :

[3][Provided that any sums [4][(other than any interest paid by a firm to a partner of the firm)] excluded under the proviso to clause (*iii*) of sub-section (2) or clause (*a*) of sub-section (4) of that section from the allowances made in computing the profits of the business for the purposes of income-tax shall, if paid, be included in those allowances when computing the profits of the business for the purposes of excess profits tax :]

Provided [3][further] that where the profits during any standard period have already been determined for the purpose of an assessment under the Indian Income-tax Act, 1922, such profits as so determined shall, subject to the adjustments required by this Schedule, be taken as the profits during that period for the purpose of excess profits tax :

Provided further that where a standard period or chargeable accounting period is not an accounting period, the profits or losses of the business during any accounting periods wholly or partly included within the standard period or chargeable accounting period shall be so computed as aforesaid, and such division and apportionment to specific periods of those profits or losses and such aggregation of those profits and losses, or any apportioned part thereof, shall be made as appears necessary to arrive at the profit during the standard period or chargeable accounting period ; and any such apportionment shall be made in proportion to the number of months or fractions of months in the respective periods unless the Excess Profits Tax Officer, having regard to any special circumstances, otherwise directs.

2. The profits of a business during the standard period shall be computed on the same basis and in the same manner as the profits of that business are under the Indian Income-tax Act, 1922, as amended by the Indian Income-tax (Amendment) Act, 1939, computed for the chargeable accounting period, notwithstanding that the Indian Income-tax (Amendment) Act, 1939, may not have been in force in the standard period.

3. (1) The principle of adding the allowance for depreciation for any one period to the allowance for depreciation for any subsequent period and deeming it to be part of the allowance for such subsequent period shall not be followed.

(2) No allowance shall be made for any loss other than a loss sustained in a business to which this Act applies.

(3) Nothing in this Act shall be construed as permitting the application, in computing profits for the purposes of the excess profits tax, of the provisions of sub-section (2) of section 24 of the Indian Income-tax Act, 1922.

4. (1) Income received from investments shall be included in the profits in the cases and to the extent provided in sub-rules (2), [3][(2A)] and (4) of this rule and not otherwise.

(2) In the case of the business of a building society, or of a money-lending business, banking business, insurance business or business consisting wholly or mainly in the dealing in or holding of investments, the profits shall include all income received from investments, whether or not such income is included in the profits charged under section 10 of the Indian Income-tax Act, 1922, or is charged under any other section of that Act, or has been subjected to deduction of tax at source or is free of or exempt from income-tax.

[3][(2A) In the case of a business part of which consists in banking, insurance or dealing in investments, not being a business to which sub-rule (2) of this rule applies, the profits shall include all income received from investments held for the purposes of that part of the business, being income to which the persons carrying on the business are beneficially entitled.]

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[3] Inserted by s. 9 of the Excess Profits Tax (Amendment) Act, 1940 (42 of 1940).

[4] These brackets and words were inserted by s. 6 of the Excess Profits Tax (Amendment) Act, 1941 (11 of 1941), and shall be deemed always to have been there.

(3) Notwithstanding anything contained in sub-rule (2) [5][or (2A)] where the profits of a subsidiary company are under the provisions of section 9 to be included in the profits of the principal company for the purposes of assessment to excess profits tax, dividends from the subsidiary company out of such profits shall not be included in the profits of the principal company.

(4) In the case of a business which consists wholly or partly in the letting out of property on hire, the income from the property shall be included in the profits of the business whether or not it has been charged to income-tax under section 9 of the Indian Income-tax Act, 1922, or under any other section of that Act.

(5) Where the person carrying on a business is the beneficial owner of any investments, the income from which is by virtue of the provisions of this rule not to be taken into account in computing the profits of the business, and a deduction would, apart from the provisions of this rule, fall to be made in respect of interest on borrowed money, the deduction (if any) to be made in respect of that interest shall be computed as if the principal of the borrowed money were reduced by the value of those investments :

Provided that where the person carrying on the business is not a company, no such reduction shall be deemed to be made in the principal of any borrowed money in respect of any investments unless the investments are mortgaged, charged or pledged as security for the repayment of that money and interest thereon.

5. If at any time after the close of the standard period, any increase in the capital employed in a business has been effected by means of a loan from a bank carrying on a bona fide banking business, or by means of a public issue of debentures secured on the property of the company, the interest on so much of the loan or debentures as has been utilised in effecting the increase in the capital shall not be deducted in computing the profits for the purposes of excess profits tax and, notwithstanding the provisions of rule 2 of Schedule II, that amount of such loan or debentures shall not be deducted in arriving at the amount of the capital employed in the business.

[6][**5A.** (1) In computing for any chargeable accounting period ending after the end of March, 1941, and in relation thereto for the standard period, if any, the profits of a business other than a business to which sub-rule (2) of rule 4 of this Schedule applies, or the profits of a part of a business other than a part of a business to which sub-rule (2A) of the said rule applies, no deduction shall be made in respect of interest on borrowed money or in respect of any other consideration given for the use of borrowed money :

Provided that, as respects any such chargeable accounting period which commences before the said end of March, the application of this rule shall be subject to the provisions of section 7A of this Act :

Provided further that this rule shall not apply to the computation of profits of any business for any chargeable accounting period the standard profits for which are ascertained by reference to the minimum amount specified in sub-section (4) of section 6 of this Act :

Provided further that where a direction has been given by a Board of Referees under sub-section (3) of section 4 or by the Central Board of Revenue under sub-section (1) of section 26 of this Act, that the standard profits shall be computed as if the profits during the standard period were such greater amount as it thinks just, such amount shall be increased by the amount of the interest on or other consideration for the borrowed money during the standard period.

(2) In this rule and in rule 2A of the Second Schedule "borrowed money" means borrowed money which, apart from the provisions of the said rule 2A, would have been deductible in computing capital.]

6. No deduction shall be made on account of liability to pay, or payment of, income-tax, super-tax, or excess profits tax.

7. [7][(1) In the case of a business carried on, in any accounting period which constitutes or includes a chargeable accounting period, by a company the directors whereof have throughout that accounting period a controlling interest therein—

(*a*) in computing the profits for that accounting period, and

(*b*) if the standard profits of the business are computed by reference to the profits of a standard period, also in computing, in relation to any such chargeable accounting period, the profits for the standard period,

no deduction shall be made in respect of directors' remuneration.]

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[5] Inserted by s. 9 of the Excess Profits Tax (Amendment) Act, 1940 (42 of 1940).

[6] Inserted by s. 8 of the Excess Profits Tax (Second Amendment) Act, 1941 (24 of 1941).

[7] Substituted by s. 9 of the Excess Profits Tax (Amendment) Act, 1940 (42 of 1940).

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(2) [8][In sub-rule (1) of this rule] the expression "directors' remuneration" does not include—

(*a*) the remuneration of any director who is required to devote substantially the whole of his time to the service of the company in a managerial or technical capacity and is not the beneficial owner of, or able, either directly or through the medium of other companies or by any other indirect means, to control, more than five per cent of the ordinary share capital of the company, or

(*b*) the remuneration of any managing agent where such remuneration is included in the profits of the managing agent's business for the purposes of excess profits tax.

[9][(3) If, in the case of a business carried on by a company in any accounting period which constitutes or includes a chargeable accounting period, the directors of the company—

(*a*) have during any part of that accounting period, or

(*b*) had during the whole or any part of any previous accounting period which includes the whole or any part of any chargeable accounting period or the whole or any part of the standard period (if any),

a controlling interest therein, and the case is not one to which sub-rule (1) of this rule applies, then, except in so far as the Central Board of Revenue otherwise directs, no deduction shall be made in respect of directors' remuneration either in computing the profits for the first mentioned accounting period or in computing, in relation to any chargeable accounting period wholly or partly included in that accounting period, the profits of the standard period (if any).]

8. In the case of a business carried on by a company, if the standard profits of the company are computed by reference to the profits during a standard period, no deduction shall be allowed in respect of remuneration paid to a managing agent in excess of the amount which would have been payable to that managing agent if the agreement in force in the standard period had been in force in the chargeable accounting period, except where such remuneration is subjected to excess profits tax in the hands of the managing agent.

9. Where the performance of a contract extends beyond the accounting period, there shall (unless the Excess Profits Tax Officer, owing to any special circumstances, otherwise directs) be attributed to the accounting period such proportion of the entire profits or loss which has resulted, or which it is estimated will result, from the complete performance of the contract as is properly attributable to the accounting period, having regard to the extent to which the contract was performed therein :

Provided that when any such contract has been completed and the profits have been finally ascertained, if the aggregate of the amounts attributed to previous accounting periods exceeds the profit, as finally ascertained, from the complete performance of the contract, an adjustment shall be made to reduce the amounts so attributed to the various chargeable accounting periods to the amount of the profits as finally ascertained.

10. In respect of any building erected on or after the 1st day of September, 1939, which during any chargeable accounting period has ceased to be required for the purposes of the business or has been sold, any amount by which the value of the building at the date when it ceased to be required for the purposes of the business or the price obtained for the building, as the case may be, falls short of the written down value of the building shall be allowed as a deduction in arriving at the profits of that chargeable accounting period.

[10][11. Where in respect of any accounting period a deduction would, apart from the provisions of this rule, be allowable in computing profits, and, in the opinion of the Excess Profits Tax Officer, the deduction does not represent a sum reasonably and properly attributable to that accounting period, only such part of the deduction shall be allowable as a deduction for that period as appears to the Excess Profits Tax Officer to be reasonably and properly attributable to that period, and any balance of the deduction shall be treated as attributable to such other accounting period or periods (whether or not they include, or fall wholly or partly within, the standard period, if any, or any chargeable accounting period) as the Excess Profits Tax Officer thinks proper :

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[8] Substituted for "In this rule" by s. 9 of the Excess Profits Tax (Amendment) Act, 1940 (42 of 1940).

[9] Added, *ibid.*

[10] Added, *ibid.*

[11][Provided that where any loss or expenditure incurred during the period commencing on the 1st day of April 1946 and ending on the 31st day of December 1947 is reasonably and properly attributable, wholly or partly, to any chargeable accounting period or standard period, such deduction as appears to the Excess Profits Tax Officer to be reasonable shall be allowed in computing the profits of such chargeable accounting period or standard period; and any relief accruing from such deduction shall be given by repayment or otherwise, as the case may require.] Div. 5 C

Any person who is dissatisfied with a determination of the Excess Profits Tax Officer under this rule may, at any time before the expiry of forty-five days from the date on which such determination is communicated to him, appeal to the Board of Referees through the Excess Profits Tax Officer.]

[12][12. (1) In computing the profits of any chargeable accounting period no deduction shall be allowed in respect of expenses in excess of the amount which the Excess Profits Tax Officer considers reasonable and necessary having regard to the requirements of the business and, in the case of directors' fees or other payments for services, to the actual services rendered by the person concerned:

Provided that no disallowance under this rule shall be made by the Excess Profits Tax Officer unless he has obtained the prior authority of the Commissioner of Excess Profits Tax.

(2) Any person who is dissatisfied with the decision of the Excess Profits Tax Officer under this rule may appeal in the prescribed time and manner to the Appellate Tribunal.]

[13][(3) In relation to chargeable accounting periods ending after the 31st day of December, 1942, the Central Government may make rules for determining the extent to which deductions shall be allowed in respect of bonuses or commissions paid.]

SCHEDULE II

[*See* SECTION 2(3)]

Rules for computing the average amount of capital

1. (1) Subject to the provisions of this Schedule, the average amount of the capital employed in a business (so far as it does not consist of money) shall be taken to be—

(*a*) so far as it consists of assets acquired by purchase on or after the commencement of the business, the price at which those assets were acquired, subject to the deductions hereafter specified;

(*b*) so far as it consists of assets being debts due to the person carrying on the business, the nominal amount of those debts, subject to the said deductions;

(*c*) so far as it consists of any other assets which have been acquired otherwise than by purchase as aforesaid, the value of the assets when they became assets of the business, subject to the said deductions.

(2) The price or value of any assets other than a debt shall be subject to such deductions for depreciation as are necessary to reduce the asset to its written down value [14][and to such other deductions in respect of reduced values of assets as are allowable in computing profits for the purposes of income-tax] and, in the case of a debt, the nominal amount of the debt shall be subject to any deduction which has been allowed in respect thereof for income-tax purposes.

(3) Where the price of any asset has been satisfied otherwise than in cash, the then value of the consideration actually given for the asset shall be treated as the price at which the asset was acquired.

2. (1) Any borrowed money and debts shall be deducted [15][and in particular there shall be deducted any debts incurred in respect of the business for income-tax or super-tax or excess profits tax, or for advance payments due under any provision of the Indian Income-tax Act, 1922 (XI of 1922), or for any further sum payable in relation to excess profits tax under section 2 of the Excess Profits Tax Ordinance, 1943 (XVI of 1943)]:

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[11] Inserted by s. 18 of the Income-tax and Excess Profits Tax (Amendment) Act, 1947 (22 of 1947).

[12] Added by s. 8 of the Excess Profits Tax (Second Amendment) Act, 1941 (24 of 1941).

[13] Added by s. 4 of the Excess Profits Tax Ordinance, 1943 (16 of 1943).

[14] Inserted by s. 10 of the Excess Profits Tax (Amendment) Act, 1940 (42 of 1940).

[15] Substituted for "and in particular any debt for income-tax or super-tax or for excess profits tax in respect of the business shall be deducted" by s. 8 of the Indian Finance Act, 1944 (12 of 1944).

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Provided that any such debt for income-tax or super-tax or excess profits tax shall, for the purposes of this Schedule, be deemed to have become due—

(*a*) in the case of income-tax and super-tax, on the last day of the period of time within which the tax is payable under section 45 of the Indian Income-tax Act, 1922 ;

(*b*) in the case of excess profits tax, on the first day after the end of the chargeable accounting period in respect of which the tax is assessable notwithstanding that the excess profits tax may not have been assessed until after that date ;

[16][(*c*) in the case of any advance payment due under any provision of the Indian Income-tax Act, 1922 (XI of 1922), on the date on which, under the provisions of that section, the payment first became due ;

(*d*) in the case of any further sum payable in relation to excess profits tax under section 2 of the Excess Profits Tax Ordinance, 1943 (XVI of 1943), on the date on which, under the provisions of that section, the further sum became payable.]

[17][The debts to be deducted under this sub-rule shall include any such sums in respect of accruing liabilities as are allowable as a deduction in computing profits for the purposes of excess profits tax or would have been so allowable if the period for which the amount of capital is being computed had been a chargeable accounting period ; and the said sums shall be deducted notwithstanding that they have not become payable.]

(2) Where any debt for the excess profits tax assessable in respect of any period is to be deducted under this rule, the amount thereof shall not be reduced as the result of any relief to be given in respect of a deficiency of profits occurring in any subsequent period, and the amount of any such relief shall be treated as having become an asset of the business on the first day after the end of the chargeable accounting period in which the deficiency occurred.

[18][2A. In computing for any chargeable accounting period ending after the end of March, 1941, and in relation thereto for the standard period, if any, the average capital of a business other than a business to which sub-rule (2) of rule 4 of the First Schedule applies, or the average capital of a part of a business other than a part of a business to which sub-rule (2A) of the said rule applies, no deduction shall be made in respect of borrowed money :

Provided that, as respects any such chargeable accounting period which commences before the said end of March, the application of this rule shall be subject to the provisions of section 7A of this Act :

Provided further that the same deduction shall be made in respect of accruing liabilities for interest as would have been made if this rule had not been enacted.]

3. [19][(1)] Any investments the income from which is by virtue of the provisions of the First Schedule not to be taken into account in computing the profits of the business, and any moneys [20][or as regards any chargeable accounting period ending after the 31st day of December, 1942, any trading stock or stock of raw materials] not required for the purposes of the business, shall be left out of account, but where any investments in the beneficial ownership of the person carrying on the business are so left out of account, the sum (if any) to be deducted under the last preceding rule in respect of borrowed money shall be computed as if the principal of the borrowed money were reduced by the value of those investments :

Provided that where the person carrying on the business is not a company, no reduction shall be deemed to be made in the principal of any borrowed money in respect of any investments unless the investments are mortgaged, charged or pledged as security for the repayment of that money and the interest thereon.

[21][(2) The Central Government may make rules defining for the purposes of this rule the principles to be followed in leaving out of account trading stock and stocks of raw materials.]

4. Notwithstanding anything contained in rule 3, in the case of the business of shipping, to which this Act applies, the sale proceeds of any tonnage sold or the amount of compensation in respect of loss of ships or the amount of accumulation of reserves, whether invested or not, shall be taken into account in computing the average amount of capital employed in such business :

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[16] Inserted by s. 8 of the Indian Finance Act, 1944 (12 of 1944).

[17] Inserted by s. 10 of the Excess Profits Tax (Amendment) Act, 1940 (42 of 1940).

[18] Inserted by s. 9 of the Excess Profits Tax (Second Amendment) Act, 1941 (24 of 1941).

[19] The original rule 3 was renumbered as sub-rule (1) by s. 5 of the Excess Profits Tax Ordinance, 1943 (16 of 1943).

[20] Inserted, *ibid.*

[21] Added, *ibid.*

Provided that any income received from investment of such funds shall be included in computing profits for purposes of the excess profits tax. **Div. 5 C**

5. For the purpose of ascertaining the average amount of capital employed in a business during any period, the profits or losses made in that period shall, except so far as the contrary is shown, be deemed—

(*a*) to have accrued at an even rate throughout the period ; and

(*b*) to have resulted, as they accrued, in a corresponding increase or decrease, as the case may be, in the capital employed in the business.

6. Where, in accordance with the second [22][or third] proviso to section 5 of this Act, this Act is applicable to part only of a business, the capital employed in that part shall be computed separately from any other capital of the person carrying on the business, and all references to capital employed in a business shall be construed as references to capital employed in that part of the business only.

[23][7. (1) If—

(*a*) the Central Board of Revenue is satisfied, as respects any assets of any business the standard profits of which are computed by reference to the profits of a standard period, that during that period or any part thereof those assets were inherently unproductive, and

(*b*) an application that this rule shall have effect is made through the Excess Profits Tax Officer to the Central Board of Revenue by the person carrying on the business,

then, in computing the average amount of the capital employed in the business in the standard period and in all chargeable accounting periods, those assets, and any other assets of the business, shall be treated as not having been assets thereof during any part of the period during which, in the opinion of the Central Board of Revenue, they were inherently unproductive :

Provided that in the case of a business the standard profits of which depend directly or indirectly upon a direction of the Board of Referees under sub-section (3) of section 6, or of the Central Board of Revenue under sub-section (1) of section 26 of this Act, the provisions of this rule shall have effect to such extent only as the Central Board of Revenue thinks proper :

Provided further that an application to the Central Board of Revenue under this rule shall be presented to the Excess Profits Tax Officer before the expiry of the period specified in the notice issued under sub-section (1) of section 13 of this Act or of the extended period allowed by the Excess Profits Tax Officer under the proviso to that sub-section.

(2) Where sub-rule (1) of this rule has effect on the application of the person carrying on any business, any computation of capital of the business made before the making of the application, and any assessment affected by that computation, shall be revised accordingly.]

SCHEDULE III

[*See* SECTION 9(7)]

Rules for determining the amount of capital held by a company through other companies

1. Where, in the case of a number of companies, the first directly owns ordinary share capital of the second and the second directly owns ordinary share capital of the third, then, for the purposes of this Schedule, the first shall be deemed to own ordinary share capital of the third through the second and, if the third directly owns ordinary share capital of a fourth, the first shall be deemed to own ordinary share capital of the fourth through the second and third, and the second shall be deemed to own ordinary share capital of the fourth through the third, and so on.

2. In this Schedule—

(*a*) any number of companies of which the first directly owns ordinary share capital of the next and the next directly owns ordinary share capital of the next but one and so on, and, if they are more than three, any three or more of them, are referred to as "a series";

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[22] Inserted by s. 9 of the Excess Profits Tax (Second Amendment) Act, 1941 (24 of 1941).

[23] Added by s. 10 of the Excess Profits Tax (Amendment) Act, 1940 (42 of 1940).

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(*b*) in any series—

(*i*) that company which owns ordinary share capital of another through the remainder is referred to as "the first owner";

(*ii*) that other company the ordinary share capital of which is so owned is referred to as "the last owned company";

(*iii*) the remainder, if one only, is referred to as an "intermediary" or, if more than one, is referred to as a "chain of intermediaries";

(*c*) a company in a series which directly owns ordinary share capital of another company in the series is referred to as an "owner";

(*d*) any two companies in a series of which one owns ordinary share capital of the other directly, and not through one or more of the other companies in the series, are referred to as being directly related to one another.

3. Where every owner in a series owns the whole of the ordinary share capital of the company to which it is directly related, the first owner shall be deemed to own through the intermediary or chain of intermediaries the whole of the ordinary share capital of the last owned company.

4. Where one of the owners in a series owns a fraction of the ordinary share capital of the company to which it is directly related, and every other owner in the series owns the whole of the ordinary share capital of the company to which it is directly related, the first owner shall be deemed to own that fraction of the ordinary share capital of the last owned company through the intermediary or chain of intermediaries.

5. Where—

(*a*) each of two or more of the owners in a series owns a fraction, and every other owner in the series owns the whole, of the ordinary share capital of the company to which it is directly related ; or

(*b*) every owner in a series owns a fraction of the ordinary share capital of the company to which it is directly related ;

the first owner shall be deemed to own through the intermediary or chain of intermediaries such fraction of the ordinary share capital of the last owned company as results from the multiplication of those fractions.

6. Where the first owner in any series owns a fraction of the ordinary share capital of the last owned company in that series through the intermediary or chain of intermediaries in that series, and also owns another fraction or other fractions of the ordinary share capital of the last owned company, either—

(*a*) directly ; or

(*b*) through any intermediary or intermediaries which is not a member or are not members of that series ; or

(*c*) through a chain or chains of intermediaries of which one or some or all are not members of that series ; or

(*d*) in a case where the series consists of more than three companies, through an intermediary or intermediaries which is a member or are members of the series, or through a chain or chains of intermediaries consisting of some but not all of the companies of which the chain of intermediaries in the series consists ;

then, for the purpose of ascertaining the amount of the ordinary share capital of the last owned company owned by the first owner, all those fractions shall be aggregated and the first owner shall be deemed to own the sum of those fractions.

THE EXCESS PROFITS TAX ORDINANCE, 1943

(ORDINANCE No. XVI OF 1943)

An Ordinance to make certain provisions in connection with the tax on excess profits.

Whereas an emergency has arisen which renders it necessary to make certain provisions in connection with the tax on excess profits;

Now, therefore, in exercise of the powers conferred by section 72 of the Government of India Act, as set out in the Ninth Schedule to the Government of India Act, 1935 (26 Geo. 5, c. 2), the Governor-General is pleased to make and promulgate the following Ordinance :—

1. Short title, extent and commencement.—(1) This Ordinance may be called the Excess Profits Tax Ordinance, 1943.

(2) It extends to [1][the whole of India except Part B States].

(3) It shall come into force at once.

2. Deposits in connection with payments of excess profits tax.—(1) When excess profits tax charged under the provisions of the Excess Profits Tax Act, 1940 (XV of 1940), in respect of any chargeable accounting period ending after the 31st day of December, 1942, becomes payable under that Act after assessment made under section 14 of that Act, the person liable to pay such excess profits tax shall deposit with the Central Government, before such date as may be specified in a notice in this behalf in such form as may be prescribed by rules made under sub-section (5) issued to him by the Excess Profits Tax Officer, a further sum equal to one-fifth of the amount of the said excess profits tax ; and the provisions of section 10 of the Indian Finance Act, 1942 (XII of 1942), shall, save in so far as they are inconsistent with this section, apply in respect of such deposits as they apply in respect of the voluntary deposits for which provision is made in the said section 10 :

[2][Provided that, in respect of any chargeable accounting period ending after the 31st day of December, 1943, the provisions of this sub-section shall have effect as if, in relation to any person who is a company, for the words "one-fifth" the words "nineteen-sixtyfourths" were substituted and as if, in relation to any other person, for the words "one-fifth" the words "seventeen-sixtyfourths" were substituted :

[3][Provided further that, in respect of any chargeable accounting period ending after the 31st day of December, 1944, the provisions of this sub-section as modified by the first proviso shall have effect as if for the words "nineteen-sixtyfourths" the figures "37/128ths" were substituted :]

Provided further that if, in respect of any chargeable accounting period ending after the 31st day of December, 1943, a person who has deposited a further sum equal to seventeen-sixtyfourths of the excess profits tax payable shows that the amount of the income-tax and super-tax payable in respect of the excess profits arising in such period exceeds fifteen-sixtyfourths of the amount of the excess profits tax payable so much of the deposit shall be refunded as will secure that

[1] Substituted by the Adaptation of Laws Order, 1950.

[2] Added by s. 8 of the Indian Finance Act, 1944 (12 of 1944).

[3] Inserted by s. 2 of the Excess Profits Tax (Amendment) Ordinance, 1945 (20 of 1945).

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the total of the deposit made and the income-tax and super-tax payable in respect of the excess profits arising in such period does not exceed one-half of the excess profits tax payable.]

[4][(1A) In respect of any chargeable accounting period ending after the 31st day of December, 1943, in respect of which a provisional assessment of excess profits tax is made under section 14A of the Excess Profits Tax Act, 1940 (XV of 1940), the person liable to pay such excess profits tax shall deposit in the manner laid down in sub-section (1) a further sum equal to nineteen-sixtyfourths of the amount of the said excess profits tax if such person is a company and seventeen-sixtyfourths of the said amount if such person is not a company; and the provisions of sub-sections (6) and (7) of the said section 14A shall apply to any payment made under this sub-section as they apply to a payment of excess profits tax :]

[5][Provided that, in respect of any chargeable accounting period ending after the 31st day of December, 1944, the provisions of this sub-section shall have effect as if for the words "nineteen-sixtyfourths" the figures "37/128ths" were substituted.]

(2) The provisions of sub-section (1) of section 10 of the Indian Finance Act, 1942 (XII of 1942), in so far as they enable the making of voluntary deposits, shall cease to have effect except in relation to excess profits tax charged in respect of a chargeable accounting period ending on the 31st day of December, 1942, or earlier.

[6][(3) Any further sum, such as is referred to in sub-section (1), deposited in accordance with the provisions of that sub-section, whether before or after the commencement of the Taxation Laws Amendment Ordinance, 1949, shall not be repaid by the Central Government unless five years have expired from the date on which the deposit was made :

Provided that the Central Government may repay any such deposit before the expiry of the period specified herein if it is satisfied that such repayment is in the public interest.]

(4) The provisions of law applicable to the payment and recovery of excess profits tax contained in sections 45 and 46 (except sub-sections (1) and (1A) thereof) of the Indian Income-tax Act, 1922 (XI of 1922), as applied by section 21 of the Excess Profits Tax Act, 1940 (XV of 1940), shall apply to the payment and recovery of the deposits required by sub-section (1) [4][or (1A)] of this section as if the notice referred to in sub-section (1) of this section were a notice of demand under section 29 of the Indian Income-tax Act, 1922 (XI of 1922), and as if a default in making payment of such deposit were a default in making payment of excess profits tax.

(5) The power to make rules for carrying out the purposes of section 10 of the Indian Finance Act, 1942 (XII of 1942), conferred by sub-section (3) of that section shall include a power to make rules for carrying out the purposes of this section.

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[4] Inserted by s. 8 of the Indian Finance Act, 1944 (12 of 1944).

[5] Added by s. 2 of the Excess Profits Tax (Amendment) Ordinance, 1945 (20 of 1945).

[6] This sub-section was substituted by s. 24 of the Taxation Laws (Extension to Merged States and Amendment) Act, 1949 (67 of 1949), for the previous sub-section which had been substituted for the original one by s. 2 of the Excess Profits Tax (Amendment) Ordinance, 1948 (27 of 1948).

3. Insertion of new section 14A in Act XV of 1940.—*This section inserted section 14A in the Excess Profits Tax Act, 1940 (XV of 1940).* *See page 493 of this Volume.* **Div. 5 C**

4. Amendment of rule 12, Schedule I, Act XV of 1940.—In the First Schedule to the Excess Profits Tax Act, 1940 (XV of 1940), to rule 12 the following sub-rule shall be added, namely :—

"(3) In relation to chargeable accounting periods ending after the 31st day of December, 1942, the Central Government may make rules for determining the extent to which deductions shall be allowed in respect of bonuses or commissions paid."

5. Amendment of rule 3, Schedule II, Act XV of 1940.—In the Second Schedule to the Excess Profits Tax Act, 1940 (XV of 1940), rule 3 shall be renumbered as sub-rule (1) of rule 3 and—

(*a*) in the rule as so re-numbered after the words "any moneys" the words "or as regards any chargeable accounting period ending after the 31st day of December, 1942, any trading stock or stock of raw materials" shall be inserted ;

(*b*) the following shall be added as sub-rule (2), namely :—

"(2) The Central Government may make rules defining for the purposes of this rule the principles to be followed in leaving out of account trading stock and stocks of raw materials."

D

THE GOVERNMENT TRADING TAXATION ACT, 1926

(ACT NO. III OF 1926)

An Act to determine the liability of certain Governments to Taxation [1][* * *] *in respect of Trading Operations.*

WHEREAS it is expedient to determine the liability to taxation for the time being in force [1][* * *] of the Government of any part of His Majesty's Dominions, [2][* * *] [3][* * * * *] in respect of any trade or business carried on by or on behalf of such Government; it is hereby enacted as follows:—

1. Short title and commencement.—(1) This Act may be called the Government Trading Taxation Act, 1926.

(2) [4]It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. Liability of certain Governments to taxation in respect of trading operations.—(1) Where a trade or business of any kind is carried on by or on behalf of the Government of any part of His Majesty's Dominions, [2][* * *] that Government shall, in respect of the trade or business and of all operations connected therewith, all property occupied in [5][India] and all goods owned in [5][India] for the purposes thereof, and all income arising in connection therewith, be liable—

(*a*) to taxation under the Indian Income-tax Act, 1922 (XI of 1922), in the same manner and to the same extent as in the like case a company would be liable;

(*b*) to all other taxation for the time being in force in [5][India] in the same manner as in the like case any other person would be liable.

(1A) [6][* * * *]

(2) For the purposes of the levy and collection of income-tax under the Indian Income-tax Act, 1922, in accordance with the provisions of sub-section (1) any Government to which that sub-section applies shall be deemed to be a company within the meaning of that Act, and the provisions of that Act shall apply accordingly.

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[1] "In the Provinces of India" omitted by the Adaptation of Laws Order, 1950.

[2] "Exclusive of India" omitted, *ibid.*

[3] "Or the Government of any Acceding State or other Indian State" omitted by the Opium and Revenue Laws (Extension of Application) Act, 1950 (33 of 1950).

[4] This Act came into force with effect from the 1st April, 1926.

[5] "The Provinces" was substituted for "British India" by the Indian Independence (Adaptation of Central Acts and Ordinances) Order, 1948; "Part A States and Part C States" was substituted for "the Provinces" by the Adaptation of Laws Order, 1950; "India" was substituted for "Part A States and Part C States" by the Opium and Revenue Laws (Extension of Application) Act, 1950 (33 of 1950).

[6] Inserted by the Indian Independence (Adaptation of Central Acts and Ordinances) Order, 1948, and omitted by the Opium and Revenue Laws (Extension of Application) Act, 1950 (33 of 1950).

(3) In this section the expression "His Majesty's Dominions" includes any territory which is under His Majesty's protection or in respect of which a mandate is being exercised by the Government of any part of His Majesty's Dominions; [7][* * *.] Div. 5 D

[8][3. **Application of the Act to existing liability of Acceding or other Indian States.**—Where any Acceding State or other Indian State was liable for any tax under this Act in respect of any period before the 26th day of January, 1950, and such liability has, after that date, devolved [9][upon a Part B State], the provisions of section 2 shall apply in relation to that Part B State as they applied in relation to the corresponding Acceding State or other Indian State.]

[7] The words "and 'India' means the territory of India excluding the State of Jammu and Kashmir", which had been added by the Opium and Revenue Laws (Extension of Application) Act, 1950 (33 of 1950), were omitted by s. 2, and Schedule of the Taxation Laws (Extension to Jammu and Kashmir) Act, 1954 (41 of 1954).

[8] Added by the Adaptation of Laws Order, 1950.

[9] Substituted for "upon an Acceding State or other Indian State" by the Opium and Revenue Laws (Extension of Application) Act, 1950 (33 of 1950).

THE CENTRAL BOARD OF REVENUE ACT, 1924

(ACT No. IV OF 1924)

An Act to provide for the constitution of a Central Board of Revenue and to amend certain enactments for the purpose of conferring powers and imposing duties on the said Board.

WHEREAS it is expedient to provide for the constitution of a Central Board of Revenue and to amend certain enactments for the purpose of conferring powers and imposing duties on the said Board ; it is hereby enacted as follows :—

1. **Short title and commencement.**—(1) This Act may be called the Central Board of Revenue Act, 1924.

(2) It shall come into force on the first day of April, 1924.

2. **Constitution of Central Board of Revenue.**—As soon as may be after the commencement of this Act the Central Government shall constitute a Central Board of Revenue consisting of one or more persons appointed by it, which shall be subject to the control of the Central Government in the exercise of such powers and the performance of such duties as may be entrusted to it by the Central Government or by or under any law.

3. **Procedure of the Board.**—The Central Government may make rules for the purpose of regulating the transaction of business by the Central Board of Revenue and every order made or act done in accordance with such rules shall be deemed to be the order or act, as the case may be, of the Central Board of Revenue.

4. **Amendments of enactments.**—*Repealed by s. 3 and Sch. II of the Repealing and Amending Act*, 1939 (34 *of* 1939).

THE SCHEDULE

*ENACTMENTS AMENDED

Repealed by s. 3 and Sch. II of the Repealing and Amending Act, 1939 (34 *of* 1939).

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* The Schedule amended the Sea Customs Act, 1878 (8 of 1878), the Cotton Duties Act, 1896 (2 of 1896), the Indian Salt Duties Act, 1908 (10 of 1908), the Indian Copyright Act, 1914 (3 of 1914), and the Indian Income-tax Act, 1922 (11 of 1922). The entry relating to Act 2 of 1896 was repealed by the Repealing Act, 1927 (12 of 1927).

THE CENTRAL BOARD OF REVENUE (REGULATION OF TRANSACTION OF BUSINESS) RULES, 1956

(*Notification No. S.R.O.* 1538, *dated the* 2*nd July*, 1956)

In exercise of the powers conferred by section 3 of the Central Board of Revenue Act, 1924 (IV of 1924), and in supersession of all previous rules on the subject the Central Government hereby makes the following rules, namely :—

1. These rules may be called the Central Board of Revenue (Regulation of Transaction of Business) Rules, 1955.

2. In these rules, unless the context otherwise requires,

(*a*) "Board" means the Central Board of Revenue constituted under section 2 of the Act ;

(*b*) "Chairman" means the Chairman of the Board ; and

(*c*) "Member" means a Member of the Board.

3. The Central Government may, by notification in the Official Gazette, appoint one of the Members of the Board to be its Chairman.

4. Save as otherwise provided by or under these rules, the business of the Board shall be transacted jointly by the Chairman and the other Members.

5. The Chairman may, with the previous approval of the Central Government, distribute the business of the Board among himself and the other Members.

6. Every order or decision made or taken by the Board shall be authenticated by the signature of the Chairman or any Member or a Secretary or an Under-Secretary of the Board or by any other officer specially empowered in this behalf by the Board.

E

THE VOLUNTARY SURRENDER OF SALARIES (EXEMPTION FROM TAXATION) ACT, 1950

(ACT NO. LXI OF 1950)

(*Received the assent of the President on the 24th August*, 1950.)

An Act to provide for exempting from taxes on income a portion of the salaries of certain persons who have in the public interest volunteered to forgo it.

Be it enacted by Parliament as follows :—

1. Short title.—This Act may be called the Voluntary Surrender of Salaries (Exemption from Taxation) Act, 1950.

*[2. **Exemption from taxes on income in respect of salaries surrendered by certain persons.**—Notwithstanding anything contained in the Indian Income-tax Act, 1922 (XI of 1922), or in any other law for the time being in force relating to taxation on income, no income-tax or super-tax shall be payable by any person whose salary is either specified in the Second Schedule to the Constitution or is determined by any Central Act, State Act or Provincial Act in respect of that part of the salary due to him under any of the said laws for any period after the 31st day of October, 1949, which that person has, by a declaration in writing, volunteered to forgo in the public interest, and that part of the salary shall not be included in his total income for the purposes of any law relating to taxation on income.]

†[3. **Provisions of section 2 to apply to allowances.**—The provisions of section 2 shall apply in relation to any allowances specified in, or determined by, any of the laws mentioned in that section which are due to any such person as is referred to therein for any period after the 1st day of April, 1955, as they apply in relation to any salary so specified or determined.]

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* Substituted for the original sections 2 and 3 by s. 2 of the Voluntary Surrender of Salaries (Exemption from Taxation) Amendment Act, 1954 (24 of 1954).

† Inserted by s. 2 of the Voluntary Surrender of Salaries (Exemption from Taxation) Amendment Act, 1956 (6 of 1956).

F

THE PAYMENT OF TAXES (TRANSFER OF PROPERTY) ACT, 1949

(ACT NO. XXII OF 1949[1])

(*Received the assent of the Governor-General on the 22nd April*, 1949.)

An Act to make provision for the payment of taxes before transfers of property are registered in certain cases.

WHEREAS it is expedient to make provision for the payment of taxes before transfers of property are registered in certain cases ;

It is hereby enacted as follows :—

1. Short title and extent.—(1) This Act may be called the Payment of Taxes (Transfer of Property) Act, 1949.

(2) It extends to [2][the whole of India * * *].

2. Application of Act.—This Act shall apply to any person—

(*i*) who, on account of the setting up of the Dominions of India and Pakistan, or on account of civil disturbances or the fear of such disturbances, leaves or has, since the 14th day of August, 1947, left any place in [3][India] for any place outside India, or who, since the said date, has been residing in any place outside India ; or

(*ii*) who, in the opinion of any of the Income-tax authorities specified in sub-section (1) of section 5 of the Indian Income-tax Act, 1922 (XI of 1922), or a Custodian of Evacuee Property or a Collector, is likely to leave [3][India] with the intention of settling in any place outside [3][India], and in respect of whom a declaration that he is a person to whom this Act applies has been received from any such Income-tax authority, Custodian of Evacuee Property or Collector by the registering officer of the area in which any property belonging to such person is situate.

[4][* * * *]

3. Payment of taxes before registration of documents.—(1) Where any document required to be registered under the provisions of clause (*a*), clause (*b*), clause (*c*) or clause (*e*) of sub-section (1) of section 17 of the Indian Registration Act, 1908 (XVI of 1908), purports to transfer, assign, limit or extinguish any right, title or interest in any property, other than agricultural land, belonging to any person to whom this Act applies, no registering officer appointed under the said

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[1] Published in the *Gazette of India*, Extraordinary, dated the 23rd April, 1949.

[2] "The whole of India except Part B States" was substituted for "all the provinces of India" by the Adaptation of Laws Order, 1950 ; "the whole of India except the State of Jammu and Kashmir" was substituted for "the whole of India except Part B States" by the Opium and Revenue Laws (Extension of Application) Act, 1950 ; "except the State of Jammu and Kashmir" was omitted by s. 2 and Schedule of the Taxation Laws (Extension to Jammu and Kashmir) Act, 1954 (41 of 1954).

[3] Substituted for "the States", *ibid.* (41 of 1954) ; "States" had been substituted for "Provinces of India" by the Adaptation of Laws Order, 1950.

[4] The following *Explanation* was omitted, *ibid.* (41 of 1954) :

"*Explanation.*—In this section 'States' does not include the State of Jammu and Kashmir".

Div. 5 F

Act shall register any such document, unless it is certified by the Income-tax Officer of the area in which the property is situate in respect of the person whose right, title or interest in the property is to be so transferred, assigned, limited or extinguished under the terms of the document that—

(*a*) such person is not liable to assessment or taxation under the Indian Income-tax Act, 1922 (XI of 1922), the Excess Profits Tax Act, 1940 (XV of 1940), or the Business Profits Tax Act, 1947 (XXI of 1947); or

(*b*) such person has either paid or made satisfactory provision for the payment of all existing or anticipated liabilities under any of the Acts specified in clause (*a*) of this sub-section; or

(*c*) the Income-tax Officer is otherwise satisfied that the registration of the document will not prejudicially affect the recovery of all existing or anticipated liabilities referred to in clause (*b*) of this sub-section.

(2) Every Income-tax Officer refusing to issue a certificate under the provisions of sub-section (1) shall make an order of refusal and record his reasons therefor and, on application made by any person claiming to be affected by such order, shall, subject to the payment of such fee as may be prescribed, furnish him with a copy of the order.

4. Recovery of taxes where property has been transferred without a certificate.—(1) Where, in respect of the transfer made on or after the seventh day of February, 1948, [5][in the territories which, immediately before the 1st November, 1956, were comprised in the States] of Bombay, West Bengal, [6][Punjab], Bihar, Delhi and [7][Ajmer], and in any [8][other territory] on or after the date on which the Transfer of Property (India) Ordinance, 1948 (III of 1948), was made applicable to [8a][that territory], of any right, title or interest in any immovable property, other than agricultural land, belonging to any person to whom this Act applies, the Income-tax Officer of the area where the property is situate is satisfied, after giving such person notice in this behalf for a period of not less than one month, that no certificate in the terms mentioned in section 3 would have been issued to him if this Act had been in force on the date the transfer was made, he may forward a statement to the Collector showing the existing and anticipated liabilities by way of taxes in respect of all or any of the parties to the transfer.

(2) On receipt of any statement under sub-section (1), the Collector shall proceed to recover the total amount shown in such statement as if it were an arrear of land revenue, and for the purpose of such recovery proceedings he may treat the property transferred as aforesaid as if it belonged to all or any of the persons named in the statement.

5. Right of appeal.—An appeal shall lie against the order of any Income-tax Officer refusing to issue a certificate under the provisions of sub-section (2) of section 3 to the Commissioner of Income-tax to whom the Income-tax Officer is subordinate, if presented to such Commissioner within thirty days from the date of the order, and the Commissioner may pass such orders thereon as he may think fit.

6. Effect of Act over other laws.—The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

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[5] Substituted for "in the States" by the Adaptation of Laws (No. 3) Order, 1956, with effect from the 1st November, 1956.

[6] Substituted for "East Punjab" by the Adaptation of Laws Order, 1950.

[7] Substituted for "Ajmer-Merwara," *ibid.*

[8] Substituted for "other State" by the Adaptation of Laws (No. 3) Order, 1956, with effect from the 1st November, 1956.

[8a] Substituted for "that State", *ibid.*, with effect from the 1st November, 1956.

7. Bar of suits.—No suit, prosecution or other legal proceeding shall lie against the Central Government or any person or authority in respect of anything which is in good faith done or intended to be done under this Act. Div. 5 F

8. Power to make rules.—The Central Government may make rules for the purpose of carrying into effect the objects of this Act, and, in particular, prescribe the fee payable under sub-section (2) of section 3.

9. Effect of expiry of Ordinance XXI of 1948.—On the expiry of the Payment of Taxes (Transfer of Property) Ordinance, 1948 (XXI of 1948), section 6 of the General Clauses Act, 1897 (X of 1897), shall apply as if the Ordinance had then been repealed by a Central Act.

G

ORDINANCES

THE INCOME-TAX AND EXCESS PROFITS TAX (EMERGENCY) ORDINANCE, 1942

(ORDINANCE No. LX OF 1942)

(*Published in the Gazette of India, Extraordinary, dated the 14th November*, 1942.)

AN

ORDINANCE

to remove certain difficulties caused by the destruction of documents and records pertaining to the collection of Income-tax and Excess Profits Tax.

WHEREAS an emergency has arisen which makes it necessary to remove certain difficulties caused by the destruction of documents and records pertaining to the collection of Income-tax and Excess Profits Tax ;

NOW, THEREFORE, in exercise of the powers conferred by section 72 of the Government of India Act, as set out in the Ninth Schedule to the Government of India Act, 1935 (26 Geo. 5, c. 2), the Governor-General is pleased to make and promulgate the following Ordinance :—

1. **Short title and commencement.**—(1) This Ordinance may be called the Income-tax and Excess Profits Tax (Emergency) Ordinance, 1942.

(2) It shall come into force at once.

2. **Power to issue notices and to secure returns.**—(1) Where documents or records pertaining to the assessment, collection or payment of income-tax or excess profits tax have been damaged, lost or destroyed as a result of riot or civil commotion, the authority authorised under the Indian Income-tax Act, 1922 (XI of 1922), or the Excess Profits Tax Act, 1940 (XV of 1940), as the case may be, to issue any notice for any of the purposes of either Act, may, notwithstanding anything contained in either of the said Acts, and notwithstanding that such notice has already been issued, or has already been issued and has been or is alleged to have been complied with, or, where such notice has already been issued, that the time within which the notice is to be issued has already expired, may reissue such notice and any notice so reissued shall in all respects have the same effect as if it were the original notice, and any proceedings that could have been taken in pursuance of or subsequent to the original notice may be taken in like manner in pursuance of or subsequent to the notice so reissued :

Provided that in respect of assessments or reassessments made in the course of any proceedings taken under the powers conferred by this sub-section the periods of eight and four years mentioned in sub-section (2) of section 34 of the Indian Income-tax Act, 1922 (XI of 1922), shall be deemed to commence on and to run from the date on which the notice under sub-section (2) of section 22 or sub-section (1) of section 34 of that Act is reissued under the powers conferred by this sub-section :

Provided further that where a person proves to the satisfaction of the Income-tax Officer or the Excess Profits Tax Officer, as the case may be, that he has already been assessed in respect of the income or the excess profits in respect of which notices under section 22 or section 34 of the Indian Income-tax Act, 1922 (XI of 1922), or under section 13 or section 15 of the Excess Profits Tax Act, 1940 (XV of 1940), have been reissued, and that he has paid the tax, he shall not be subject to fresh assessment. Div. 5 G

(2) Any return or information required or which could be required under the provisions of either of the said Acts to be furnished by any person shall, if the Income-tax Officer or the Excess Profits Tax Officer so requires at any time, be again furnished by such person notwithstanding that it may have been or is alleged to have been already furnished, and any failure to comply with any such requirement by an Income-tax Officer or Excess Profits Tax Officer shall involve the same consequences as if the return or information had been altogether withheld.

3. **Settlement of doubts.**—If any question arises whether a document or record has been damaged, lost or destroyed as a result of riot or civil commotion, the matter shall be referred to the Commissioner of Income-tax or to the Commissioner of Excess Profits Tax, as the case may be, and his decision shall be final.

4. **Power to make rules.**—The Central Government may make rules providing for any matter necessary to carry into effect the purposes of this Ordinance.

Div. 5
G

THE INCOME-TAX PROCEEDINGS VALIDITY ORDINANCE, 1943

(ORDINANCE NO. IV OF 1943)

(*Published in the Gazette of India, Extraordinary, dated the 16th January*, 1943.)

AN

ORDINANCE

to establish the validity of certain appointments as Income-tax Officer of, and certain proceedings under the Indian Income-tax Act, 1922, taken by, persons designated as Assistant Income-tax Officers.

WHEREAS an emergency has arisen which makes it necessary to establish the validity of certain appointments as Income-tax Officer of, and certain proceedings under the Indian Income-tax Act, 1922 (XI of 1922), taken by, persons designated as Assistant Income-tax Officers;

Now, THEREFORE, in exercise of the powers conferred by section 72 of the Government of India Act, as set out in the Ninth Schedule to the Government of India Act, 1935 (26 Geo. 5, c. 2), the Governor-General is pleased to make and promulgate the following Ordinance :—

1. **Short title and commencement.**—(1) This Ordinance may be called the Income-tax Proceedings Validity Ordinance, 1943.

(2) It shall come into force at once.

2. **Validity of appointments as Income-tax Officer of Assistant Income-tax Officers and of proceedings taken by them.**—Where, whether before or after the commencement of this Ordinance, any person designated as an Assistant Income-tax Officer has been appointed to be or to discharge the functions of an Income-tax Officer for any of the purposes of the Indian Income-tax Act, 1922 (XI of 1922), and where, whether before or after the commencement of this Ordinance, a person designated as an Assistant Income-tax Officer, appointed to be or to discharge the functions of an Income-tax Officer, has given or served any notice or taken any action whatsoever under the said Act for the purpose of or in connection with the making of an assessment under the said Act, such person shall be deemed to be and always to have been validly appointed as an Income-tax Officer for the purposes of the said Act, and no act purporting to have been done by such person as an Income-tax Officer, and no notice purporting to have been given or served by such person as an Income-tax Officer shall be called in question merely on the ground of any irregularity or defect in the manner of his appointment as an Income-tax Officer.

THE INCOME-TAX AND EXCESS PROFITS TAX (VALIDITY OF NOTICES) ORDINANCE, 1944

(ORDINANCE No. XLV OF 1944)

(*Published in the Gazette of India, Extraordinary, dated the 3rd October*, 1944.)

AN

ORDINANCE

to remove doubts as to the validity of certain notices under the Indian Income-tax Act, 1922, *and the Excess Profits Tax Act*, 1940.

WHEREAS an emergency has arisen which makes it necessary to remove doubts as to the validity of certain notices under the Indian Income-tax Act, 1922 (XI of 1922), and the Excess Profits Tax Act, 1940 (XV of 1940);

NOW, THEREFORE, in exercise of the powers conferred by section 72 of the Government of India Act, as set out in the Ninth Schedule to the Government of India Act, 1935 (26 Geo. 5, c. 2), the Governor-General is pleased to make and promulgate the following Ordinance:—

1. **Short title, extent and commencement.**—(1) This Ordinance may be called the Income-tax and Excess Profits Tax (Validity of Notices) Ordinance, 1944.

(2) It extends to [1][Part A States and Part C States], and applies also, within the [2][Part B States] [3]* * *, in relation to the persons specified in sub-section (2) of section 1 of the Indian Income-tax Act, 1922 (XI of 1922).

(3) It shall come into force at once.

2. **Validity of certain notices.**—For the removal of doubts it is hereby enacted that every notice published or issued, whether before or after the commencement of this Ordinance [4][but not later than the 19th day of May 1945,]

(*a*) under sub-section (1) of section 22 of the Indian Income-tax Act, 1922 (XI of 1922), requiring a return to be furnished within sixty days from the date of the notice, or

(*b*) under sub-section (2) of the said section or under sub-section (1) of section 34 of the said Act, requiring a return to be furnished within thirty days of the receipt of the notice, or

(*c*) under sub-section (1) of section 13 of the Excess Profits Tax Act, 1940 (XV of 1940), requiring a return to be furnished within sixty days from the date of the service of the notice, or

(*d*) under section 15 of the last-mentioned Act, requiring a return to be furnished within sixty days of the receipt of the notice,

shall, notwithstanding any judgment or order of any Court, Appellate Tribunal or Income-tax authority to the contrary, and whether or not any specified date on or before which the return is to be furnished is or has been given in the notice as an alternative, be deemed to give or have given a period of notice in full compliance with law, and no such notice shall be called in question or be deemed to be, or at any time to have been, invalid for any purpose whatsoever (including any proceedings, criminal or otherwise, instituted whether before or after the commencement of this Ordinance, under, or for a contravention of, any of the provisions of either of the above-mentioned Acts) on the ground merely that a period insufficient in law within which to carry out the requirements of the notice has been specified therein.

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[1] Substituted for "all the Provinces of India" by the Adaptation of Laws Order, 1950.
[2] Substituted for "Indian States", *ibid.*
[3] "And the tribal areas" omitted, *ibid.*
[4] Inserted by Ordinance No. XVI of 1945.

Div. 5 G

THE WAR GRATUITIES (INCOME-TAX EXEMPTION) ORDINANCE, 1945

(ORDINANCE NO. XXIV OF 1945)

(Published in the Gazette of India, Extraordinary, dated the 14th July, 1945.)

AN

ORDINANCE

to exempt certain war gratuities from liability to income-tax.

WHEREAS an emergency has arisen which makes it necessary to provide for exempting certain war gratuities from liability to income-tax ;

NOW, THEREFORE, in exercise of the powers conferred by section 72 of the Government of India Act, as set out in the Ninth Schedule to the Government of India Act, 1935 (26 Geo. 5, c. 2), the Governor-General is pleased to make and promulgate the following Ordinance :—

1. **Short title and commencement.**—(1) This Ordinance may be called the War Gratuities (Income-tax Exemption) Ordinance, 1945.

(2) It shall come into force at once.

2. **Interpretation.**—In this Ordinance "war gratuity" means any gratuity paid in respect of any person's service in His Majesty's Forces in connection with any hostilities in which His Majesty has been or may be engaged during the period commencing on the 3rd day of September 1939 and ending on such date as the Central Government may by notification in the Official Gazette specify in this behalf, but does not include a gratuity (by whatever name called) payable under a contract of service.

3. **Exemption of war gratuities from liability to income-tax.**—Notwithstanding anything contained in the Indian Income-tax Act, 1922 (XI of 1922), any war gratuity paid whether after the commencement of this Ordinance or not to any person shall not for the purposes of that Act be included in the total income or total world income of that person.